

Appeal Decision

Site visit made on 24 February 2021

by Beverley Doward BSc BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/G2713/W/20/3262784

**Land adjacent to Greencroft House, Bell Lane to Hollin Hill,
Huby, YO61 1HF**

- 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 Guy Thompson against the decision of Hambleton District Council.
 - The application Ref 20/01307/FUL, dated 23 June 2020, was refused by notice dated 18 September 2020.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The Decision Notice refers to policies of the adopted development plan which comprises the Hambleton Core Strategy Development Plan Document 2007 (the Core Strategy) and the Hambleton Development Policies Development Plan Document 2008 (Development Policies). In its appeal statement the Council indicates that since the determination of the application that lead to this appeal the Examination in Public of the Hambleton Local Plan (Local Plan) commenced. The Council has provided an assessment of the appeal proposal against the policies of the Local Plan and the appellant has had the opportunity to comment upon these. However, the Inspector's report on the examination of the Local Plan has not yet been issued. Therefore, the policies of the Local Plan have limited weight and I have determined the appeal accordingly.
3. The site visit was made during the Covid-19 pandemic on an unaccompanied basis. I viewed the site from the public realm. However, I am satisfied that, from my observations and the evidence before me, I have sufficient information to assess the proposal and to determine the appeal.

Main Issues

4. The main issues in this case are:
 - whether the proposed development would be suitably located with regard to the development strategy for the area and its effect on the character and appearance of the area; and

- whether the proposed development would provide satisfactory living conditions for its future occupiers with regard to privacy, outlook and amenity space.

Reasons

Location of development and character and appearance

5. The appeal site lies to the south of the main part of the village of Huby. It is located off Bell Lane at the point that it turns east becoming Sutton Road. The appeal site is primarily part of a wider area of scrub grassland to the western side of an unmade access track. The access track extends south from Bell Lane and serves a farm and residential properties located further south in the countryside. The site also includes an area of the access track and a small slice of land to the eastern side of the track.
6. The site is located south of the detached dwelling known as Meadow View which fronts onto Bell Lane. A tall leylandii hedge forms the northern and part western boundary of the site with Meadow View. A more indigenous hedge, which includes a mature Oak tree protected by a Tree Preservation Order (TPO), forms the remainder of the western boundary of the site with the countryside which extends beyond. The southern boundary of the site is open to the wider area of scrub grassland on the western side of the access track. The eastern boundary of the site abuts the access track in part and the scrub grassland to the east of the track. Further east beyond the scrub grassland is the detached dwelling known as Green Croft which fronts onto Sutton Road.
7. It is common ground between the parties that the site lies outside the development limits of Huby. Policy DP9 of the Hambleton Development Policies Development Plan Document 2008 (Development Policies) indicates that planning permission will only be granted for development outside development limits in exceptional circumstances having regard to Policy CP4 of the Hambleton Core Strategy Development Plan Document 2007 (the Core Strategy).
8. Policy CP4 of the Core Strategy identifies a settlement hierarchy for Hambleton. Outside of the named settlements, the policy indicates that development will only be supported when an exceptional case can be made for the proposal in terms of Core Strategy Policies CP1 and CP2, and for certain specific purposes set out in Policy CP4. The appellant does not seek to suggest that the proposed development would meet the exceptional circumstances indicated in Policies CP1 or CP2. Nor is it suggested that the proposed development would meet the criteria or exceptional circumstances set out in Policy CP4 of the Core Strategy or Policy DP9 of the Development Policies.
9. Both parties refer to the Council's Interim Planning Guidance (IPG) for considering residential development proposals in and around smaller settlements which was adopted by the Council in 2015 to ensure consistent interpretation of the National Planning Policy Framework (the Framework) published in 2012 alongside Policy CP4 of the Core Strategy and DP9 of the Development Policies.
10. The IPG aims to support small scale housing development where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community. It also aims to protect the character of the

countryside. This is consistent with the aims of paragraphs 78 and 79 of the current Framework published in 2019. Accordingly, although it does not have the statutory status of the development plan, the IPG is an important material consideration, which can be given substantial weight.

11. The IPG indicates that small-scale housing development in villages will be supported where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community subject to meeting all of the six specified criteria.
12. There is no dispute that Huby is a sustainable settlement with a range of local services that the development would support. Accordingly, criterion 1 of the IPG would be satisfied.
13. The Council indicates that if the proposal was considered acceptable, further details would be required regarding the arrangements for foul and surface water. I also note the infrastructure concerns raised by interested parties. Nevertheless, there is no substantive evidence that the development would not be capable of being accommodated within the capacity of existing or planned infrastructure, particularly in relation to drainage and highway matters. Accordingly, criterion 5 of the IPG would also be satisfied.
14. Criteria 2, 3 and 4 of the IPG indicate that new development must be small in scale, reflecting the existing built form and character of the village; must not have a detrimental impact on the natural, built and historic environment and should not have a detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements. Criterion 6 indicates that development must conform with all other relevant Local Development Framework policies.
15. The proposed development is for a single dwelling. Accordingly, it is small in scale. However, the appeal site lies beyond the main part of Huby village to the north which comprises continuous development extending along Sand Lane, Main Street and Baston Lane. The continuity of the development along the frontages of these roads forms a cohesive mass of buildings with a clear visual and spatial relationship. In contrast the development along Bell Lane is more sporadic in nature to that which extends along Sand Lane, Main Street and Baston Lane. There are larger gaps between the dwellings and the presence of open fields in the area serve to contribute to it having an open and rural character and appearance. Whilst I accept that this area is associated with the main part of the village it does not form part of its main built form. Furthermore, the distance of the appeal site from the main built form of the settlement means that it cannot be considered adjacent to the main built form of Huby. In this respect therefore the proposed development would not result in incremental and organic growth of the settlement.
16. The IPG indicates that where proposals do not adjoin a settlement then wider consideration must be given to the special physical characteristics of the surrounding area. It states that small gaps between buildings should be retained where these provide important glimpses to open countryside beyond and contribute to the character and appearance of the area. It also indicates that development which results in ribbon development or has a poor relationship with the built form will not be acceptable.

17. As indicated above, the development along Bell Lane is sporadic in nature. The appeal site does not have a frontage onto Bell Lane but rather lies to the south of the dwelling known as Meadow View on an area of scrub grassland alongside an unmade access track. It provides important glimpses through to open countryside. Consequently, the appeal site is both physically and visually more closely associated with the open countryside surrounding the village rather than the built form of the village. The proposed development would not comprise a natural infill or extension to the settlement of Huby but would instead appear as an encroachment of built development into the countryside to the detriment of its open character and the surrounding rural landscape. I note that in advice given at the pre-application stage of a previous proposal on the site the Council indicated that the site would be an infill between existing properties within this part of the settlement. However, I am mindful that such advice does not constitute the formal view of the Council. In any event, I have found above that the proposed development would not comprise a natural infill or extension to the settlement of Huby.
18. The appellant indicates that a 'cottagey solution' has been adopted in the design of the proposed dwelling so as to be in-keeping with the more rural and traditional vernacular of the village. However, as I saw from my site visit and as acknowledged by the appellant, there are a range of properties of varying styles, sizes and ages within Huby. This is particularly so outside of the development limits.
19. The proposed dwelling would be three stories high with accommodation in the roofspace. Its height and associated mass would appear at odds with the character and appearance of nearby properties in the immediate surrounding area which are of more traditional two storey proportions. In addition, the shallow pitch of the roof of the garage would relate poorly to the roof pitch of the main dwelling. The introduction of built form in this location would fail to respect the character and appearance of this countryside setting and the built form of Huby. It would therefore have a detrimental effect on the character and appearance of the surrounding area and the open countryside.
20. To conclude on this main issue therefore, having regard to all of the above, the proposed development would not be suitably located with regard to the development strategy for the area and would cause harm to the character and appearance of the area. It would conflict with policy CP4 of the Core Strategy and the requirements of the IPG, particularly IPG criteria 2, 3 and 4. It would also fail to accord with the aims of Core Strategy Policies CP16, CP17 and Development Policies DP30 and DP32 which, amongst other things, seek to protect the character and appearance of the countryside and require high quality design that respects the local context and takes account of local character and settings.
21. The proposed development would also be contrary to Local Plan policies S1, S5, HG5 and E1 which deal with matters relating to character and appearance. However, as the policies of the Local Plan carry only limited weight they have not been central to my consideration of this matter and do not alter my conclusions on this main issue, having regard to the provisions of the Core Strategy, Development Policies, IPG and the Framework, as set out above.

Living conditions

22. The proposed dwelling would be positioned on the site such that any overlooking of its garden areas from the first-floor windows in the side elevation of the dwelling known as Meadow View to the north would be limited. Whilst there would be the potential for some overlooking of the front and side/rear garden area closest to the boundary with Meadow View there would nevertheless be a significant amount of the rear garden area that would not be visible from these windows such that I am satisfied that the proposal would not result in any significant harm to privacy in this respect.
23. The presence of the mature Oak tree, which is protected by a TPO, within the hedgerow which forms part of the western boundary of the site means that both the rear elevation of the proposed dwelling house and a significant amount of its rear garden area would experience overshadowing during the late afternoon/early evening which it seems to me would be a time when the occupants of the proposed dwelling are particularly likely to use the rear garden. Therefore, notwithstanding that much of the rear of the ground floor of the dwelling would be glazed, the proposal would result in an unsatisfactory outlook from the rooms on the rear elevation of the proposed house and the rear garden. In addition, the useability of the rear garden area would be significantly restricted by its proximity to the preserved tree. Accordingly, the proposed development would not provide satisfactory living conditions for its future occupants having regard to outlook and amenity space. The proposal would therefore be contrary to the provisions of Core Strategy Policies CP1 and CP17 and Development Policies DP1 and DP32 which, taken together, seek to ensure that development proposals are of a high-quality design and protect amenity. It would also fail to comply with the provisions of the Framework (paragraph 127) which requires a high standard of amenity for existing and future users.
24. As indicated above the policies of the Local Plan carry only limited weight. Therefore, whilst the proposed development would also be contrary to Local Plan policy E2 which deals with matters relating to amenity this policy has not been central to my consideration of this matter and does not alter my conclusions on this main issue, having regard to the provisions of the Core Strategy, Development Policies and the Framework, as set out above.

Other matters

25. The appellant refers to other recent developments which the Council has approved and which it is contended are indicative of inconsistencies in the approach taken on the appeal proposal and that on other similar proposals in relation to the IPG. I am not aware of the detailed circumstances relating to the developments referred to. Therefore, I cannot be satisfied that they are the same as in this case. In any event, I have considered the appeal proposal on its own merits having regard to the specific context of the site and its surroundings and relevant planning policies. I have found that the proposal would not be suitably located with regard to the development strategy for the area and would cause harm to the character and appearance of the area. I have also found that it would not provide satisfactory living conditions for its future occupants having regard to outlook and amenity space. The harm that I have found is not something that would be reduced or mitigated against by the presence of other developments elsewhere.

Conclusion

26. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Beverley Doward

INSPECTOR