



Appeal Decision

Site Visit made on 29 July 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/G2713/W/21/3271425

Land North of Ten Trees, Exelby

- 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 Peter Simpson against the decision of Hambleton District Council.
 - The application Ref 20/01462/OUT, dated 8 July 2020, was refused by notice dated 20 January 2021.
 - The development proposed is a detached dwelling with detached garage and new vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling with detached garage and new vehicular access at Land North of Ten Trees, Exelby in accordance with the terms of the application, Ref 20/01462/OUT, dated 8 July 2020, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Peter Simpson against Hambleton District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application to which this appeal relates was made in outline with details of access only and all other matters are reserved. I have determined the appeal on this basis.
4. I have amended the description of development detailed in the application form in the interests of clarity and to be concise.
5. During the course of the planning appeal, the Government published the revised National Planning Policy Framework (the Framework), which came into force on 20 July 2021. The Framework sets out the Government's planning policies for England and how they should be applied.
6. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

8. The appeal site consists of part of a grassed field, ringed by trees and hedges. The Council describes the site as “despite being the start of the countryside the site still feels more part of the village to the south and west as opposed to the rolling open countryside which begins about 40m to the north”. I saw at the site visit that the proposed location of the appeal scheme is adjacent to a new housing development, currently under construction, and a site that benefits from planning permission for a single dwelling, as noted by both parties.
9. I saw at the site visit that Exelby is a pleasant village primarily consisting of residential properties of a variety of styles and ages, but generally being individual properties set within their own plots of a commiserate size.
10. The appeal scheme consists of a single residential dwelling, because all matters other than access are reserved, I have treated the other details on the submitted plans as being indicative, these show a dwelling located centrally on the appeal site of similar proportions to the neighbouring dwellings.
11. In refusing to grant planning permission, the Decision Notice refers to policies DP30 and DP32 of the Hambleton Local Development Framework Development Policies (the DP) that, amongst other matters, seek to protect and enhance the landscape and seek high quality design.
12. Exelby is absent from the settlement hierarchy detailed in Policy CP4 of the Hambleton Local Development Framework Core Strategy 2007 (the CS) and the Council details that there is no defined development boundary for the settlement.
13. Policy CP4 of the CS states that appropriate proposals will be supported within the development limits and that proposals at other locations, that are beyond these limits, will only be supported under exceptional circumstances if specific exception criteria are met. The appellant does not claim that the proposed development meets these criteria but describes the policy as “somewhat out-of-date” and refers to the “positive provisions” of the Framework and specifically paragraph 78, now 79, of the revised Framework that refers to sustainable development in rural areas.
14. In relation to the above, the Council produced an Interim Policy Guidance Note (IPGN) in 2015. The IPGN was produced to align Policy CP4 of the CS with the Framework. Unlike Policy CP4 of the CS, the IPGN does not seek to restrict all development to within the defined settlement development limits. It revises the settlement hierarchy, defining Exelby as an Other Settlement, and introduces the principle of ‘Cluster Villages’. The IPGN states that small scale housing development will be supported where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community. This is generally consistent with Paragraph 79 of the Framework. Development is also required to meet the six criteria set out in the IPGN.
15. The Council explicitly states that it is of the opinion that the proposed development meets criterion 1 and the first part of criterion 2, but fails the

- second part in reflecting the existing built form and character of the village and criterion 4 regarding the "impact on the open countryside".
16. The emerging Hambleton Local Plan (the HLP) was submitted to the Secretary of State for examination on 31 March 2020. The appellant details that the examination hearing sessions have now been concluded and that "The Inspectors Post Hearing letter was issued on the 18th January 2021 setting out the initial findings on soundness matters and the possible need for main modifications to some policies."
 17. With regards the guidance set out in paragraph 48 of the Framework, the emerging plan is at an advanced stage of preparation and confirm with the Framework, while the policies do not benefit from the statutory force accorded to adopted policies under s38(6) of the 2004 Act, nonetheless it is my planning judgement that they can be afforded some limited weight in the determination of this appeal.
 18. Emerging Policy HG5 of the HLP refers to windfall housing sites. The Council recognises that the policy is "clearly relevant to the proposal in this case" but "the policy is subject to Main Modifications which are yet to be resolved". This policy is generally more permissive of development, described by the appellant as "allows development adjacent to the main built form of service, secondary and small villages subject to satisfying a number of detailed criteria which are similar in essence to the IPG".
 19. Emerging Policy S3 of the HLP, Exelby is again defined as a 'Small Village' which is capable of supporting new development in principle so long as it is proportionate to the size of the settlement and its level in the settlement hierarchy
 20. The Council details that the site, as it currently stands, provides a buffer from the settlement to the countryside beyond and "plays an important part of the setting of the village". At the site visit I saw that the established hedgerows at the boundaries of the field, of which the appeal site forms part, provides a screening effect of the appeal site from views from outside of the village. Furthermore, I note that the remainder of the land in the appellant's ownership adjacent to the appeal site would continue to perform the same buffer function as it does currently, albeit at a reduced size, and the screening benefit of the hedgerow would also remain.
 21. Furthermore, the recent approval of a house and the construction of housing adjacent to the appeal site has significantly increased the intimacy of the relationship of the appeal site and the built form of the settlement. The appeal site lies on the edge of the core of the otherwise linear settlement, an area set around the junction of Toft Lane, unnamed roads and the B6285, that includes a public house and village green.
 22. I recognise that the proposed development would result in a gain of a single dwelling on to an otherwise open and undeveloped site. However, this scale of development is proportionate to the settlement, available services both in Exelby and surrounding settlements. While I am mindful of the outline nature of the scheme, with only access details applied for, on the basis of the evidence before me I am satisfied that the proposed dwelling reflects the form and character of the village.

23. As such, I am satisfied that the appeal scheme would constitute incremental and organic growth as supported by the IPGN and the development plan as a whole. I find that the appeal scheme is therefore not contrary to policies DP30 and DP32 of the DP.

Conditions

24. The Council has provided a list of suggested conditions, I have considered these suggested conditions in the context of advice set out in the Planning Practice Guidance.
25. In the interests of clarity and certainty I have included conditions regarding the life of the permission and a list of approved plans. To define the permission, I have detailed the reserved matters and the timescale for their submission.
26. In the interests of the living conditions of the occupiers of neighbouring properties I have included a condition requiring the submission of sections and levels of existing and proposed ground and floor levels.
27. In the interests of highway safety, I have included conditions relating to access and surface water management. I have included a condition relating to a Construction Management Plan because of the proximity of the appeal site to other residential properties and the need to protect the living conditions of the occupiers of these neighbouring properties.
28. The Council suggested a condition to limit the permission to a single dwelling. I am satisfied that such a condition is not necessary in the context of advice set out in the Planning Practice Guidance.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site Layout Plan as Existing 2018.46/01 Rev. B; Site Layout Plan as Proposed 2018.46/03 Rev. D.
- 5) Prior to construction of any building or regrading of land commencing detailed cross sections shall be submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development and the relationship to adjacent development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.
- 6) There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.
- 7) The development must not be brought into use until the access to the site has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements: The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E50 and the following requirements: • Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway. • The final surfacing of any private access must not contain any loose material that it is capable of being drawn on to the existing or proposed public highway. All works must accord with the approved details.
- 8) There must be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 59 metres measured along both channel lines of the major road from a point measured 2.0 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 9) No part of the development must be brought into use until the access, parking, manoeuvring, and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of Schedule