



Appeal Decision

Site visit made on 16 August 2021

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

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/Y2736/W/21/3275118

Ashdale Farm, Carr Lane, East Heslerton, Malton YO17 8RP

- 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 Adrian Sykes of Skye Property Group Limited against the decision of Ryedale District Council.
 - The application Ref 20/00934/MOUT, dated 1 October 2020, was refused by notice dated 19 April 2021.
 - The development proposed is residential development of 5no. Self-build dwellings and formation of vehicular access following demolition of existing outbuildings (site area 1.19ha) – approval sought for access and layout.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline, with matters of access and layout sought for approval at this stage. I have determined this appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.
4. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

Main Issues

5. The main issues in this appeal are:
 - Whether the site would be a suitable location for residential development with regards to development plan policy;
 - The effect on the character and appearance of the area;
 - Whether sufficient evidence has been submitted regarding archaeology;

- Highway safety;
- The living conditions of nearby residents with regards to disturbance and privacy; and
- Other considerations relevant to the planning balance.

Reasons

Whether Suitable Location

6. Policy SP1 of the Ryedale Plan - Local Plan Strategy 2013 (the Local Plan) sets out that development will be distributed in line with the Spatial Strategy Summary and on the basis of a hierarchy of settlements. Within the terms of the Local Plan and the Spatial Strategy, East Heslerton is considered to be an 'Other Village' where the expansion of settlements for housing will only be justified in exceptional circumstances.
7. Apart from one of the access routes, the appeal site is located outside of the defined Development Limits for the village. Policy SP2 of the Local Plan sets out the Council's approach to the delivery and distribution of new housing in Other Villages such as East Heslerton as well as the wider open countryside. The proposal would not comply with the relevant provisions of policy SP2, including the relationship with defined development limits and local needs occupancy restrictions.
8. East Heslerton also contains minimal facilities, as is reflected in its classification as an Other Village in the settlement hierarchy. Whilst there is a bus stop near to the site, residents are likely to rely on the private car for reasons of convenience. Residents of the proposal may support services in other settlements in the area, although given the number of dwellings proposed the benefits arising from the level of support would be very limited. Paragraph 105 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, there is no clear planning justification as to why this proposal requires a rural location.
9. Nevertheless, policy SP1 recognises the contribution that development can make to rural communities and that the expansion of settlements for housing may be justified in exceptional circumstances. Mindful of other issues and considerations raised by this proposal, I will return to this issue later in my decision.

Character and Appearance

10. The extent of development along Carr Lane has a strong linear character. The appeal site is located to the rear of a number of semi-detached dwellings which are of a similar design and regularly spaced within the streetscape.
11. The appeal site extends to the rear of this linear extent of dwellings, and primarily consists of a number of grassed paddocks of an open rural character. The appeal site is clearly part of the countryside setting of the settlement, and does not represent an infill site as contended by the appellant.
12. As well as the semi-detached dwellings, there is a mix of other house and building designs in the area. However, the arrangement of the dwellings along Carr Lane respects the linear layout, and other buildings which project further

to the rear are of a character more associated with the surrounding countryside.

13. Within this context, the appeal proposal would appear as the intrusion of built development into the surrounding countryside. The proposed layout of 5 detached dwellings would be of an incongruous urban character which would be an alien feature on this backland area, contrasting uncomfortably with the linear nature of adjacent dwellings. Even with the provision of landscaping, the extent and form of the development would be apparent. Due to the spacing of nearby dwellings as well as visibility along the proposed access routes, the unacceptable projection of this backland development into the countryside would be apparent in views from Carr Lane.
14. I conclude that, due to its layout and location, the proposal would lead to significant harm to the character and appearance of the area. The proposal would therefore be contrary to the design and landscape requirements of policies SP13, SP16 and SP20 of the Local Plan.

Archaeology

15. The appellant has provided a Heritage Impact Assessment (HIA) which states that the site is within a landscape of considerable prehistoric, Roman, early medieval and medieval period activity. Based on existing evidence, the HIA recommends that the stripping and construction of the access road is undertaken under archaeological monitoring. However, the Council considers that the submitted evidence is insufficient to enable an assessment of the significance of archaeological remains within the site.
16. Paragraph 194 of the Framework sets out that an application should describe the significance of any heritage assets affected. However, the HIA recognises that there is potential for as yet unidentified archaeological remains within the site due to the limitations of geophysical surveys. The County Archaeologist has expressed concern that the HIA and previous geophysical survey work are not sufficient to allow the significance of the archaeological remains to be properly defined.
17. Due to the potential sensitivity of the site, and based on the evidence before me, I consider that a precautionary approach in respect of archaeological remains is appropriate. Even allowing for construction techniques to mitigate the impact of archaeology, the appellant's evidence is not sufficient to enable a proportionate judgement to be made on the significance of heritage assets and the potential impact. On that basis, the Council's requirement for trial trenching is well-founded.
18. I conclude that insufficient evidence has been provided to demonstrate that the proposal would not lead to an unacceptable impact regarding archaeology. The proposal would therefore be contrary to policy SP12 of the Local Plan which seeks to protect features of local historic value having regard to the scale of harm and the significance of the heritage asset. The proposal would also be contrary to the Framework with regards to conserving and enhancing the historic environment.

Highway Safety

19. In respect of highway safety, the Council has expressed a number of concerns including the width of the carriageway leading to the site, the lack of a turning

circle within the site for service vehicles, and the extension of pedestrian access along the carriageway leading to the main site entrance.

20. The appellant has provided a draft Planning Obligation which includes the procurement of local highway improvement works, amongst other things. However, this obligation has not been completed and it includes little detail about whether the improvement works are feasible. The information provided in the appellant's Analysis of the Council's Statement of Case is also limited, and does not demonstrate that the required improvements can be undertaken.
21. The southern access leading to the site is of limited width, and I concur with the Council's concerns that this would not be sufficient to cater for traffic arising from the proposal, even allowing for the main access to the north. The appellant has not provided sufficient information to demonstrate that service vehicles can enter and leave the site in forward gear. Whilst it may be possible to address matters of highways detail by condition, I am mindful that access and layout are matters to be determined at this stage, and it has not been demonstrated that safe provision can be made for service vehicles within the layout of the site.
22. I conclude that it has not been demonstrated that the proposal would be acceptable in respect of highway safety and servicing, and the proposal would therefore conflict with the access and servicing requirements of policy SP20 of the Local Plan.

Living Conditions

23. The appeal site is located adjacent to the rear gardens of dwellings on Carr Lane, with the proposed access road located in close proximity to the boundary with the gardens. Due to this arrangement, residents of the adjacent dwelling would be aware of vehicle movements associated with the proposal. However, due to the limited number of vehicles generated by the proposal as well as the extent of the rear gardens of neighbouring properties, I do not consider that the disturbance would be sufficient to withhold planning permission.
24. In respect of privacy and overlooking, the dwellings would be set some distance from the boundary with neighbouring properties. The extent of overlooking enabled by windows of the proposed dwellings can also be addressed when considering the appearance and scale of the development at the reserved matters stage. On that basis, I do not consider that the proposal would lead to unacceptable harm to the privacy of neighbouring residents.
25. I conclude that the proposal would not harm the living conditions of neighbouring residents in respect of disturbance and privacy. The proposal would therefore not conflict with policy SP20 of the Local Plan with regard to the amenity of occupants on neighbouring land. The proposal would also not conflict with the Framework in respect of achieving a high standard of amenity for existing and future users of land.

Other Considerations

26. The appeal proposal is described as being for **self-build housing**. Under the 2015 Act¹, the Council has a 'duty to grant planning permission' and a 'duty as

¹ Self-build and Custom Housebuilding Act 2015 (as amended)

regards registers'. These duties are also emphasised in Footnote 28 of the Framework.

27. With regards to registers, the Council has confirmed that the number on the self-build register on 30 October 2020 includes 69 individual registrations. This is a clear indication of demand within the Council's area, and is a material consideration in respect of this proposal.
28. The Council submits that housing arising from unanticipated small sites has been sufficient to meet demand from the relevant base periods and within the time specified in the legislation. It refers to the number of applications that have sought self-build exemptions from the Community Infrastructure Levy, but has provided no evidence in support of this. As part of its duties under the 2015 Act in respect of the duty to grant planning permission, the Council must give enough suitable development permissions to meet the identified demand for self-build and custom-build housing. Based on the evidence before me, the Council has not demonstrated that it has done this.
29. Within the context of the Council's duties under the 2015 Act, the provision of 5 self-build dwellings would be a modest contribution to the demand identified on the Council's register, and carries commensurate weight in favour of the proposal.
30. The appellant contends that the site should be considered to be **previously developed land** (PDL). There are a number of permanent buildings around Ashdale Farm, including the farmhouse and garages. However, these are set within their own distinct enclosures, and the appeal site does not fall within the curtilage of these buildings. In that respect, the appeal site cannot be considered to be PDL. I have had regard to the Title Plan submitted by the appellant. However, whilst the use and ownership of land can be appropriate tests of curtilage, in this case these matters do not outweigh the distinctly separate nature of the appeal site from the farmhouse and nearby buildings.
31. In any event, the Framework emphasises that it should not be assumed that the whole of the curtilage of PDL should be developed. Given the open rural character of the appeal site, even if I had concluded that the site was PDL this would carry very limited weight in favour of the extent of development proposed.
32. The appellant indicates that they are willing to provide a proportion of the plots as **affordable housing**. However, the evidence suggests that this would arise from some of the plots being gifted to members of the landowner's family. There is also no mechanism before me to ensure that the dwellings would remain as affordable housing. This matter does not weigh in favour of the proposal.
33. I have had regard to the **personal circumstances** and intentions of the landowner's family. However, there is no certainty that matters such as growing their own fruit and vegetables and raising animals would endure in the future. The changes in the circumstances of the landowner's family are essentially a private matter rather than a public benefit, and do not weigh in favour of the appeal considered on its planning merits.
34. In respect of **environmental benefits**, there may be potential to increase biodiversity at the site, and the County Ecologist considers that the proposal

would lead to significant net gains. Whilst I acknowledge the County Ecologist's comments, given the scale of the appeal site such gains would be limited as a wider consideration. The potential use of renewable energy sources and the supply of electric car charging points would primarily address the impacts of the development itself. The potential to work from home may also reduce the number of journeys from the site. However, not all residents may work from home, and in any event they will need to travel to access services and facilities. The environmental benefits referred to by the appellant carry no more than limited weight in favour of the proposal.

Other Matters

35. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.
36. The appellant refers to an appeal relating to residential development at Hill Chorlton². However, this appeal was not advanced on the basis of self-build housing and differed in a number of other respects, including that the Inspector concluded that the site represented PDL, that the Council's policies were out of date, and that it could not demonstrate a 5 year housing land supply. Even allowing for the consideration of access to services, the circumstances of that appeal are materially different to the appeal before me which I have determined on its individual merits.

Conclusion

37. Notwithstanding my conclusions in respect of living conditions, the proposal would conflict with planning policy with regards to the location of residential development, archaeology and highway safety; and would be harmful in respect of character and appearance as well as access to services by sustainable means. Even allowing for the self-build nature of the proposal, the net gain in biodiversity and other potential benefits, these benefits would not be sufficient to outweigh the significant harm arising from the development.
38. The proposal would therefore not lead to the exceptional circumstances required by the Spatial Strategy Summary referred to in policy SP1 of the Local Plan, where the expansion of Other Villages such as East Heslerton may be justified. Whilst the proposal may support the rural economy and communities, it has not been demonstrated that it is necessary for those purposes or requires a rural location. The proposal would therefore not comply with that provision of Policy SP1, or indeed any of the other provisions, relating to development in Other Villages. Due to the significant harm arising from the proposal and conflict with development plan policy, it would also not comply with policy SP19 of the Local Plan with regards to sustainable development.
39. The proposal would be contrary to the development plan and the Framework as a whole with regards to achieving sustainable development. There are no material considerations of such weight that indicate that this appeal should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross INSPECTOR

² Appeal Ref: APP/P3420/W/19/3225154