



Appeal Decision

Site Visit made on 2 September 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/G2713/W/21/3276702

Land East of Bell Lane, Huby YO61 1YB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Richard Roberts Ltd & George Sootheran Trust against Hambleton District Council.
 - The application Ref 21/00467/OUT, is dated 23 February 2021.
 - The development proposed is described as "outline planning application for the erection of 5 No. residential dwellings with access from Bell Lane".
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for the erection of 5 No. residential dwellings with access from Bell Lane at Land East of Bell Lane, Huby YO61 1YB in accordance with the terms of the application, Ref 21/00467/OUT, dated 23 February 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.
3. Outline planning permission is sought with all matters reserved except access. I have determined the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the surrounding area and whether there is a requirement for affordable housing.

Reasons

Character and appearance

5. The surrounding area, in particular the development to the north and north west of the appeal site, has been described as being defined by a variety of modern residential development that comprise single and two storey properties laid out around cul-de-sac arrangements with single access points connected to existing highway network. I concur with this description. The appeal site immediately abuts the modern residential development of West Villas and is outside the identified development limits of the village. Whilst the site is an

- open field, given its relationship with the adjoining settlement, the site is not in a rural area.
6. All matters, except access, are reserved for future consideration, nevertheless, an indicative layout plan has been submitted. This layout plan shows detached properties around a cul-de-sac arrangement with single access point which would blend in with the existing cul-de-sac developments in the immediate locality.
 7. The appeal site is bound by built form to the north however, the proposed development would also be contained by the existing road to the west and substantial mature landscaping to the east. This is reflective of the properties immediately to the north which are also bounded in a similar manner. The Council are concerned that the proposal would not “round off” the village envelope. The proposal would be an extension of the village with a layout that matches the existing built form in the immediate setting. There would evidently be a loss of an open field however, given the type of development that can be provided to match surrounding built context and with the existing road and landscaping bounding the site to the west and east, the proposal would not be an encroachment into the countryside that would be harmful to the character and appearance of the area.
 8. I note that the proposed development would be visible from a number of views, including short, medium and longer views. Due to the position of the development and the existing features surrounding the site, the proposal would relate well to the existing village and not appear as an incongruous development that would be detrimental to the appearance of the surrounding countryside. The indicative plan does show a relatively hard boundary to the south however, the inclusion of landscaping which can be provided at reserved matters stage would soften this boundary ensuring no adverse effects.
 9. I have had regard to the Council’s statement of case which includes reference to a previous appeal decision¹. Insufficient information has been provided on this previous appeal scheme and I cannot be sure that it is directly comparable to the scheme subject of this appeal, particularly with regards to location and surrounding built form. In any case, I have determined this appeal on its own merits. The Council also raise concerns with regards to coalescence with the settlement of Sutton on the Forest. Given the separation of the site from this other settlement I am satisfied the proposal would not lead to coalescence of settlements.
 10. Accordingly, the proposal would not have a harmful effect on the character and appearance of the surrounding area. The proposal would accord with Policies CP16 and CP17 of the Hambleton District Council Core Strategy 2007 (CS), Policies DP30 and DP32 of the Hambleton District Council Development Policies 2008 (DP) and the Council’s Interim Policy Guidance Note (IPG) which seeks development to preserve and enhance natural and man-made assets, respect and enhance local context, protect the character and appearance of the countryside, be of high quality design and not lead to coalescence of settlements.

¹ Planning Inspectorate Reference Number: APP/G2713/W/20/3255131

Affordable requirement

11. The Council state that due to the submission of other planning applications² by the same applicant which amount to a total of 10 dwellings on neighbouring parcels of land, the affordable housing threshold of 6 dwellings has been triggered. This therefore requires, in the Council's opinion, the proposed five properties in this appeal scheme to all be affordable housing.
12. Whilst the appellant appears to be the same as the applicant for the other planning applications², one of the applications was withdrawn and the other is for a different site which is not physically connected to the appeal site. There is also insufficient evidence to indicate whether the developments would be brought forward at the same time. There does not appear to be any direct link between the appeal scheme and these other planning applications², particularly application 20/02217/OUT.
13. Therefore, the proposal would not be contrary to Policy CP9 of the CS which indicates that housing development, not in rural areas, of 15 or more dwellings (or sites of 0.5ha or more) must make provision for an element of housing which is accessible and affordable.
14. Policy CP9a of the CS has also been included in the Council refusal reasons. This Policy relates to the support of development outside development limits where 100% affordable housing is provided to meet an identified local need. This Policy does not however negate schemes coming forward that do not have 100% affordable housing. The proposal would not contradict Policy CP9a.

Other Matters

15. The Council's reason for refusal states that the scheme is contrary to Policy CP4 of the CS. Policy CP4 appears to restrict development to within development limits unless supported by an exceptional case. The Council do however state that following the publication of the Framework, the IPG was adopted which allowed for limited growth in smaller settlements and subsequently the Council consider the scheme to be acceptable in principle. Whilst I accept that the proposal would breach Policy CP4, the development would support local services in the area and therefore accord with the IPG. I do not find that there would be any material harm as a result of the breach to Policy CP4 of the CS.
16. I have had regard to the concerns raised by local residents which include personal circumstances of neighbouring occupiers and other matters such as bin storage, smells, vermin, noise, construction works, drainage and flooding, loss of views, security, privacy, light, loss of agricultural land, wildlife, traffic and pressure on amenities. I have given careful consideration to these matters, some of which Council Officers have not raised objections on and some would be capable of being addressed at reserved matters stage or by planning conditions in any event, but they do not lead me to a different overall conclusion on the main issues or convince me that planning permission should be withheld.

² Local Planning Authority Reference Numbers: 20/02217/OUT and 20/02233/OUT

Conditions and Legal Agreement

17. The conditions imposed are those that were suggested by the Council. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
18. Conditions relating to timeliness, the submission of reserved matters, the overall quantum of development, and the identification of plans are necessary in the interests of proper planning and to provide certainty. In the interests of highway safety conditions are imposed in relation to surface water discharge, visibility splays, accesses, parking, turning areas, street lighting, road signs, verge crossings, gates and barriers, driveway surfacing and construction management. To safeguard the living conditions of neighbouring occupiers, a condition is necessary in relation to hours of operation. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage, contamination and ecological matters. To ensure the development does not compromise the character and appearance of the area, a condition is necessary in relation to landscape implementation.
19. The Council had requested conditions relating to site levels and finished floor levels, details of existing trees and hedgerows and removal of permitted development rights. Most of these details can be sought through a reserved matters application and therefore are not necessary. With regards to the removal of permitted development rights condition, given there are no final details on layout and appearance of the proposed properties, it cannot be established at this stage whether future development of the properties would need to be restricted.
20. It had also been suggested that the application should be subject of a legal agreement to secure affordable housing. Given my findings on the main issues, this legal agreement is not required.

Conclusion

21. The proposal would not materially conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
22. Therefore, for the reasons given above, the appeal should be allowed.

Chris Baxter

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) 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: TBDS-HUB-00-DR-A-0103 E; TBDS-HUB-00-DR-A-0101 C.
- 5) Before the development hereby approved is commenced, details of the following shall be submitted to and approved in writing by the local planning authority:
 - measures required to prevent surface water from non-highway areas discharging onto the existing highway;
 - visibility splays of 43 metres measured along both channel lines of the major road from a point measured 2.4 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;
 - vehicular and pedestrian accesses;
 - vehicular parking;
 - vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear;
 - relocation of existing street lighting column and/or road sign;
 - highway verge crossings.

The development shall be carried out in accordance with the approved details and retained for their intended purposes at all times.
- 6) 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 highway.
- 7) The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing public highway.
- 8) Before the development hereby approved is commenced a Construction Management Plan shall be submitted to and approved in writing by the local planning authority which shall include, but not limited to, the following:
 - details of any temporary construction access to the site including measures for removal following completion of construction works;

- wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- the parking of contractors' vehicles;
- areas for storage of plant and materials used in constructing the development clear of the highway;
- contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

The approved details shall be adhered to throughout the construction period for the development.

- 9) Before the development hereby approved is commenced, full details of foul and surface water drainage shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 10) Before development hereby approved is commenced an assessment of the risks posed by any contamination, including the importation of soils, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- 11) Before the development hereby approved is commenced a Reasonable Avoidance Measures (RAMS) document incorporating a barn owl method statement relating to the barn owl box at Cariss House and measures to minimise impacts on great crested newt during works which shall include include: details of toolbox talks; timing of works; sensitive clearance of vegetation; site supervision and hand searching requirements; and good working practices/ site housekeeping to avoid attracting amphibians onto the development site, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) Before the development hereby approved is commenced a Construction Environmental Management Plan, including measures to protect habitats and species during site clearance and construction works, shall be

- submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 13) Before the development hereby approved is commenced a biodiversity metric e.g. Defra v2.0 metric, including justification for habitat classifications and conditions, pre and post development, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 14) The total number of residential dwellings shall not exceed 5.
 - 15) The hours of operation for construction works including excavation, breaking up of existing concrete or tarmac areas, demolition works, piling operations shall be restricted to between 08:00 – 18:00 Monday to Friday and 08:00 – 12:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays.
 - 16) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.