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## Appeal Decision

Site visit made on 16 March 2022

**by M L Milliken BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 April 2022**

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**Appeal Ref: APP/G2713/W/21/3285560**

**OS Field 5800 Land adjoining Skottowe Crescent Great Ayton (Easting 455558, Northing 511113)**

- 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 H.W.Mawer Charitable Trust against the decision of Hambleton District Council.
  - The application Ref 21/00925/OUT, dated 8 April 2021, was refused by notice dated 24 September 2021.
  - The development proposed is described as '*Outline planning application for the residential development of up to 30 dwellings at OS Field 5800 Land adjoining Skottowe Crescent Great Ayton*'.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council has confirmed that, since the appeal was lodged, the Hambleton Local Plan (HLP) was adopted, on 22 February 2022. As a result, the Hambleton Local Development Framework policies cited on the decision notice have been superseded and no longer form part of the development plan. The Council has provided a list of HLP policies that cover similar principles and issues to those cited on the decision notice, but unhelpfully did not direct me as to which were deemed direct replacements for the superseded policies. As the appellant has been informed and provided with the opportunity to comment, I am content to proceed with the appeal on that basis, although I have made my own judgement as to which of the HLP policies identified by the LPA are most relevant for consideration in this case, the details of which are provided later in this decision.
3. A Section 106 Agreement has been submitted by the appellant which makes provisions for affordable housing, on-site open space and off-site contributions for public open space, sport and recreation. I am satisfied that the agreement provided in evidence is fit for purpose as a deed and I will address the provisions of the Obligation later in this decision.

## **Main Issues**

4. The main issues are:

- (i) The effect of the proposed development on the special historic interest of heritage assets, including nearby listed buildings, with particular regard to their setting and whether or not the proposed development would preserve or enhance the character or appearance of the Great Ayton Conservation Area (the CA); and
- (ii) Whether or not the proposed development would occupy an appropriate location for new dwellings, with specific regard to the Development Plan and the National Planning Policy Framework (the Framework).

## **Reasons**

### *The effect on Historic Assets*

- 5. Great Ayton is a modest settlement that contains a number of listed buildings, including those within close proximity to the appeal site, namely the Grade I listed church of All Saints, Grade II\* listed Ayton Hall and the Grade II listed Christ Church. The Council have provided me with a copy of the Listing Descriptions. I observed and appreciated the historic assets during my site visit, including the form of the buildings, the materials used in construction and their edge of settlement location, which, in part, contribute to their significance.
- 6. I acknowledge that limited modern development has occurred on land adjacent to the appeal site and some modification of local field boundaries has occurred over time, in addition to the presence of post and wire fencing on land between the appeal site and the Grade I listed church of All Saints. However, the surrounding rural landscape is both a fundamental and intrinsic part of the setting of the listed buildings, which allows their historic context, including views, to be appreciated, and therefore contributes positively towards the significance of the assets.
- 7. The appeal site is also located within close proximity to the CA, the significance of which broadly relates to the historic core of the settlement. I find that, for reasons already stated, the surrounding rural landscape, including the appeal site, also makes a positive contribution to the setting of the CA.
- 8. The appellant asserts that the existing residential development to the west of the A173 has already eroded the positive rural characteristics of the landscape setting and thereby the setting of the listed buildings, and that the proposed development would soften and enhance views from Ayton Hall and local footpaths looking towards the wider landscape, including Roseberry Topping. I concur that the existing residential development west of the A173 has had some eroding effect on the surrounding rural landscape. However, much remains and is appreciable, particularly in the context of the heritage assets. The proposal, on the other hand, would encroach further towards the heritage assets and would impact negatively upon their settings, eroding the surrounding rural landscape to an unacceptable degree.
- 9. I accept that the proposed development would be of a high quality. However, the presence of residential development would permanently alter the historic

context of this part of the village and its environs. There would be a loss of openness within close proximity to nearby listed buildings, the settings of which are, in part, characterised by the rural landscape and an absence of built development. Proposed mitigation planting is acknowledged however this would take time to fully mature and would, in itself, present a visual change that would serve to alter the historic context and thereby the setting of the listed buildings, undermining their significance.

10. I note that a Heritage Assessment, dated 1 April 2021, has been provided in evidence by the appellant. However, for the reasons already stated, I do not agree with the overall conclusions presented and consider that the proposed development would have an adverse effect on the setting of historic assets. I also note an objection from Historic England in this regard.
11. I have had regard to a number of appeal decisions presented. However, I have little reason to conclude that they are directly comparable to the appeal site, in terms of its location or its immediate context. I have therefore afforded minimal weight to them in the consideration of this appeal.
12. Overall, I consider that the proposed development would result in less than substantial harm to the significance of the Grade I listed church of All Saints, Grade II\* listed Ayton Hall and the Grade II listed Christ Church, and thus would have an adverse effect upon the significance of designated heritage assets. For the same reasons, the proposed development would fail to preserve or enhance the character or appearance of the CA and would result in less than substantial harm to its significance. It would therefore conflict with adopted Policies S7 and E5 of the HLP (2022), which seek to ensure that Hambleton's heritage assets are conserved in a manner appropriate to their significance and that development proposals preserve, and in the case of Conservation Areas, enhance, features that contribute to the special historic interest of designated historic assets and their settings.

#### *Location of proposed development*

13. The appeal site comprises land currently used for agriculture, located beyond the existing built form of the village. The site is surrounded by existing residential development, listed buildings, land used for horsiculture and open countryside.
14. Although in outline, the proposed development is well-designed and would provide a range and choice of housing, half of which would be affordable units. As such, it would accord with some of the criteria outlined by adopted Policy HG5 of the HLP (2022), which sets out the principles for windfall housing development. However, for reasons already stated, I consider that the surrounding rural landscape and thereby the absence of built development contributes positively to the setting and significance of both the CA and nearby listed buildings, the loss of which would result in less than substantial harm to the heritage assets. As such, the proposed development would conflict with Policy HG5 when read as a whole, particularly parts d) and e) which state that proposals should not result in a loss of open space that is important to the historic form and layout of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of a village.
15. Great Ayton is defined as a Service Village within the HLP (2022). As the appeal site is located beyond the existing built form of the village, it is within

open countryside. Policy S5 of the HLP (2022) states that development in the countryside will only be supported where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located.

16. The appellant argues that local character and appearance would not be significantly altered by the proposed development. However, for reasons given above, I consider that the proposed development would result in a discernible and adverse change to the character of the rural landscape that surrounds this part of the village. For the reasons given, I therefore consider that the proposed development would conflict with adopted Policy S5 of the HLP (2022).
17. For the reasons set out, the proposed development would not occupy an appropriate location for new dwellings and would conflict with adopted Policies HG5 and S5 of the HLP (2022), and the relevant Paragraphs of the Framework.

### **Section 106 Agreement**

18. The first obligation relates to the provision of on-site open space. The second obligation relates to off-site contributions for public open space, sport and recreation. On the evidence before me, it appears that, in relation to the first and second obligations, the need for the obligations and contributions sought by the Council arises from the development and satisfies the three tests contained in Regulation 122(2) of The Community Infrastructure Levy (CIL) Regulations 2010 (the CIL regulations), namely that they are necessary to ensure that the development is acceptable in planning terms, directly related to the development are fairly and reasonably related in scale and kind to the development. For the same reasons, the the need for affordable housing in this case also accords with paragraph 57 of the Framework.
19. The third obligation relates to the provision of affordable housing, which is proposed at a rate of 50% or 15 units, 11 of which would be affordable rent and four would be disposed of by shared ownership. I note that the rate of affordable proposed is in excess of the requirement outlined within adopted Policy HG3 of the HLP (2022). On the evidence before me I am satisfied that the need for the affordable housing contribution sought by the Council directly arises from the development and therefore satisfies the three tests of the CIL Regulations and accords with paragraph 57 of the Framework.

### **Planning Balance**

20. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
21. The proposed development would have an adverse effect on the significance of designated heritage assets and would fail to preserve the character and appearance of the CA. Paragraph 202 of the Framework requires that, where a

development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

22. The proposed development would result in some public benefits, including but not limited to the provision of 50% affordable housing, public open space, new footpath links, tree and hedge planting, together with the social and economic benefits associated with new housing. The appellant also advises that the H. W. Mawer Charitable Trust would utilise the land receipt from the site to maintain Sion Hill Hall, a nearby listed building. I consider however that the majority of these benefits could be realised through development in other locations which would not result in the scale of harm identified in this case.
23. The appellant has also brought several other matters to my attention, including additional benefits such as focussing views through the development towards the spire of Christ Church. Whilst I am in no doubt as to the positive value of some of these, I have found that the benefits do not negate the proposed development's overall conflict with the Framework and the development plan.
24. The appellant asserts that the proposed development would meet local housing need, however the removal of the draft allocation, in terms of the Council's ability to meet housing need, has been tested rigorously through the Local Plan process and has been found sound. I therefore do not accept that there is an overarching need case with regards to the delivery of the site in order to assist the Council with meeting local housing need. In addition, for reasons already cited, I do not consider that an exceptional case for development through the provision of affordable housing has been made, the evidence and rationale for which has also been thoroughly tested through the plan-making process in recent months. It is clear to me that housing need is to be met elsewhere in the district, the details of which are clearly outlined within the adopted HLP (2022) and associated evidence and background documents.
25. I note that a letter of support has been submitted in support of the proposed development from an affordable housing provider and I give this some weight in the consideration of this appeal.
26. I have had regard to the benefits put forward by the appellant, however I do not consider that, in overall terms, the public benefits proposed outweigh the scale of the harm that I have identified in relation to both the CA and nearby listed buildings. I am also minded that the Local Plan Inspector, upon reviewing all the evidence submitted when reaching a decision on the draft proposed allocation of the site for housing within the HLP, also came to the conclusion that the site would be unsuitable for residential development, in part due to the effect on nearby historic assets.
27. I therefore consider that the proposed development would be contrary to adopted Policies S7, E5, HG5 and S5 of the HLP (2022), for the reasons set out.

### **Other Matters**

28. I note recent correspondence from the Council with regards to the location of the site within the Nutrient Neutrality SSSI catchment area for the Teesmouth & Cleveland Coast SPA / Ramsar. This matter did not form part of the Council's case at application or appeal stage, and as such there is not detailed evidence

before me with regards to the issue. Since I am dismissing the appeal in any event for the reasons provided, I have not considered the matter further.

### **Conclusion**

29. The statutory duty in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposed development would have an adverse effect on the significance of designated heritage assets and would fail to preserve or enhance the character or appearance of the CA. The harm I have identified would not be outweighed by public benefits.
30. The proposed development would also be contrary to the development plan, for the reasons provided. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

*ML Milliken*

INSPECTOR