
Appeal Decision

Site visit made on 12 April 2022

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/G2713/W/21/3285270

Land to north of North Moor Road, Easingwold

- 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 D Parker, Parker Oak Ltd against the decision of Hambleton District Council.
 - The application Ref: 21/00330/FUL, dated 8 February 2021, was refused by notice dated 25 August 2021.
 - The development proposed is the demolition of existing agricultural building and erection of new Oak Frame joinery workshop, complete with offices, covered stores, yard and carparking.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Parker, Parker Oak Ltd against Hambleton District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant submitted a document with the appeal titled 'Parker Oak Ltd – business case' and a letter from Momentum Taxation and Accountancy Ltd. These were not before the Council at the time of its decision. The Council and interested parties have though had the opportunity to comment on them during the course of the appeal and so they have been considered in my decision.
4. The Council adopted the Hambleton Local Plan (2022) (Local Plan) on the 22 February 2022. The policies it contains replaces those that are set out in the reason for refusal. The Council's Appeal Statement explained where it considered there was conflict with the Local Plan policies. As well as highway safety, this also concerned development in the countryside and biodiversity. The appellant has had the opportunity to consider these matters at the subsequent Final Comments stage. The revised National Planning Policy Framework (Framework) has also been published since the Council made its decision and parties have referred to it in their submissions. Accordingly, I have considered the appeal on this basis.

Main Issues

5. Taking into account the above, the main issues are (i) whether the proposal would accord with the development plan policies concerning development in the countryside; (ii) the effect on highway safety by way of the proposed access arrangements; (iii) the effect on biodiversity interests; and (iv) if harm arises, whether this is outweighed by the benefits of the proposal.

Reasons

Development in the Countryside

6. The main portion of the appeal site comprises an area of land that is well set back from North Moor Road. It contains an agricultural building that is used for storage. Open storage is also found on the land around it, along with dilapidated smaller buildings. The site also contains part of an adjoining field. Elsewhere, the site is fairly well enclosed by trees and hedgerows. The single width access track leads through an adjacent field and joins North Moor Road close to a property known as Linton House.
7. The area in the vicinity of the site consists of an agricultural landscape of fields and vegetation, with occasional isolated buildings and farmsteads. The site is well separated from Easingwold and it lies in distinctly countryside surroundings. It is treated as such for the purposes of the Local Plan.
8. Policy S3 of the Local Plan sets out the distribution of growth that will help to achieve the overall strategy for development in the Council area. This includes supporting the growth and diversification of the rural and agricultural economy, through Policies S5 and EG7 of the Local Plan.
9. Policy S5 is the Local Plan policy which concerns development in the countryside. With regard to replacement buildings, the policy states that only limited increases in floorspace will be supported, amongst other considerations. The term 'limited' is not defined under the policy and so it is a matter of judgment for the decision-maker.
10. According to the planning application form, the proposed building would have a net additional gross internal floorspace following development of 710 square metres (sqm) and a total of 1513 sqm. In comparing the proposal to the existing figure of 803 sqm, this would not represent a limited increase in floorspace in applying a reasonable interpretation of the term 'limited'. The appellant has referred to an increase of 424 sqm, although even this would not reasonably represent a limited increase.
11. There would not be a particular conflict with the rest of the policy. However, such matters do not address that it would not represent a limited increase in floorspace. As a result, it would loosen the distinction between the built form of settlements and the countryside surrounding them due to the substantial increase in floorspace size.
12. I am less persuaded there would be conflict with Policy EG7 because this concerns the need for the business in such a rural location, rather than the replacement building itself which is more comprehensively dealt with by Policy S5, as is relevant to the matters of dispute in this case. Whilst I am aware that there is some dispute over whether there would be a suitable existing or allocated employment site, with regard to the supporting text to Policy EG7,

the functional need for the development in the location does not seem to be a particular matter of contention for the main parties, given that the Council has pointed to employment sites in the area. Nevertheless, this does not address the conflict with Policies S3 and S5.

13. I conclude that the proposal would not accord with the development plan policies concerning development in the countryside. It would not comply with Policy S3 because it would not support the growth and diversification of the rural and agricultural economy through Policy S5, and so it would be at odds with the overall strategy for development in Hambleton. It would not comply with how Policy S5 protects the countryside because it would not constitute a limited increase in floorspace.

Highway Safety

14. North Moor Road is a narrow single track road. A short distance to the east of the site, it connects to Husthwaite Road which permits 2 way traffic and leads into Easingwold. In the opposite direction, after a greater distance, North Moor Road connects to Thirsk Road which then joins onto the A19.
15. The traffic survey contained within the appellant's Highways Supporting Statement (HSS) establishes that North Moor Road is very low trafficked. This was borne out largely by what I observed on site, and that Husthwaite Road is busier. Whilst the HSS makes limited reference to the type of traffic that uses North Moor Road, I observed some use by farm traffic and by recreational users on foot, cycle and horse, as well as a limited number of cars and vans.
16. The HSS estimates that the trip generation associated with the proposal would constitute 7 two-way staff trips during peak hours as a worse-case scenario and 60 Heavy Goods Vehicle (HGV) movements per year. Whilst these numbers are low, this does not mean that the increased number of vehicle movements would be insignificant, because of the very low traffic levels on North Moor Road and as it is used by non-motorised users. It is also questionable how feasible use by modes of transport other than the car for staff would be due to the isolated location of the proposal. Nevertheless, rural areas rarely have the same benefit of these modes of transport as urban areas.
17. In terms of managing the likely highway impact on North Moor Road, this would require off-site access improvements. I have been referred to a lay-by and works to the site access itself. These works are not before me and were refused planning permission¹. This refusal has not been appealed but the appellant intends the works to be the subject of a separate resubmitted planning application, should the appeal be allowed. As a consequence, these works are intrinsically linked to the proposal because they are required for it to be not unacceptable in highway safety terms, even though they would be the subject of a separate application.
18. In the absence of these works being for my consideration, or an existing approval, there is not sufficient certainty such details can be relied on by way of the imposition of a Grampian type planning condition. If approval was not forthcoming, the effect would be to nullify a permission and this would not meet the test of being reasonable in all other respects, with regard to

¹ Council ref: 21/00464/FUL

paragraph 56 of the Framework and paragraph 003 of the Planning Practice Guidance: *Use of Conditions* (PPG).

19. The alternative position would be to not apply a condition. With the narrow form of North Moor Road, this would lead to conflict at times as in particular HGV traffic attempts to access the site, even along the short stretch of road from Husthwaite Road. This would be far from satisfactory as regards highway safety, when other vehicles and non-motorised users are considered. The Highway Authority's position is also predicated on these improvements being made. Matters in relation to the accident record and visibility do not address my concerns because these would not result in the imposition of the access improvements.
20. The Council is also concerned how enforceable it would be to require traffic to use Husthwaite Road, rather than North Moor Road in the opposite direction. The appellant proposes this through a Service and Delivery Management Plan (SDMP), the implementation of which is suggested would be dealt with through a planning condition. Given that North Moor Road, for all of its unfavourable characteristics, provides a more direct access to the A19 and that the SDMP approach would rely on all drivers being aware of and adhering to such a condition, the Council's position is understandable. Conversely, the appellant has pointed to an example of where such a condition was used elsewhere in an appeal decision², albeit for a different purpose. However, given my concerns over access improvements, traffic routeing is not on its own decisive.
21. In terms of whether a planning obligation could control the access, a related legal agreement is not before me. Hence, there is not cause for me to consider whether this approach would be enforceable in order to control the access.
22. I conclude that the proposal would have an unacceptable effect on highway safety by way of the proposed access arrangements. As such, it would not comply with Policy IC2 of the Local Plan where it states that a proposal will only be supported where it is demonstrated that it is located where the highway network can satisfactorily accommodate, taking account of planned improvements, the traffic generated by the development; and, that highway safety would not be compromised and safe physical access can be provided to the proposed development from the highway networks, amongst other matters. The proposal would also not accord with the Framework and with the PPG where they refer to conditions satisfying the tests.

Biodiversity

23. Policy E3 of the Local Plan states that all development will be expected to demonstrate the delivery of a net gain for biodiversity. The Framework also sets out that proposals are to contribute to and enhance the natural and local environment, through minimising impacts on and providing net gains for biodiversity.
24. In terms of what impacts there might be on biodiversity, it is of note that the proposed building would be located in the same part of the site as the existing main building and that it would result in removal of the current open storage on site. It would however also represent a significant increase in the amount of development and activity on the site, compared to the existing situation.

² Appeal ref: APP/M0655/W/19/3239500

25. Policy E3 also provides particular protection to designated site of importance for nature conservation, local geological site, or a non-designated site or feature of biodiversity interest. It has not been suggested that the proposal would impact on these designations and features.
26. Biodiversity net gain is clearly a requirement of the development plan and is now a relevant consideration in this case. This is irrespective of when the statutory requirement would be enacted under the Environment Act 2021. However, when considering the circumstances of the site and the proposal, it would seem to me that biodiversity net gain could ably be achieved with the imposition of a planning condition, if I was minded to allow the appeal.
27. On this basis, I conclude that the proposal would not have an unacceptable effect on biodiversity interests. Hence, it would comply with Policy E3 in respect of how it seeks to consider biodiversity, including net gain.

Benefits

28. The appellant is a local firm that designs and fabricates Green Oak structures. The proposal would be of benefit to the rural economy. It would enable the business to relocate so that the new premises could more ably accommodate its operations. Compared to the current premises, the appellant has pointed to the need for a greater workshop size, more outdoor space, a need for suitable office space and staff rest areas, as well as to enable customers to see their structures been built. It would also be intended to increase the current workforce.
29. The business is currently located on a temporary basis and regardless of views on the appellant's site selection process and alternatives there is a need for a permanent site which falls to be considered against the relevant planning considerations under the Local Plan, as I have done so in my decision. There has also been difficulty in acquiring commercial premises due to financial limitations. Nor does the Local Plan rule out such development on land that is not in existing employment use or is allocated as such, subject to the policies that I have considered. The economic benefits and the needs of the business thus attract support for the proposal. Policy EG2 of the Local Plan does not guide my decision substantially further. It does not concern the site because it relates to the protection of land and buildings already in employment use or proposed as such through allocation.
30. The appellant has also pointed to that limited views of the proposal would result and that the proposed building would be located on the existing footprint. It would also remove the current open storage, albeit more outdoor space is also required for the business. There would however be a significant increase in the amount of development on site and activity, and it would be contrary to the countryside policy of the Local Plan that seeks to protect such a location from other than limited floorspace. This tempers the weight that can be attached to such a benefit.

Planning Balance and Conclusion

31. The proposal would not accord with development plan policies concerning development in the countryside and it would be contrary to the overall strategy for development under the Local Plan. It would also have an unacceptable effect on highway safety by way of the proposed access arrangements. Such

matters carry very significant weight in my decision. Set against this would be the economic benefits and the needs of the business, which attract significant weight.

32. The appellant considers that the planning system should operate to encourage sustainable economic growth and not act as an impediment. With the harm that would arise, I am not persuaded that the proposal can be considered to be sustainable economic growth. Moreover, neither the Local Plan nor the Framework is unqualified in this regard, including in relation to the consideration of the issues which I have found count against the proposal.
33. The appellant also considers that the pre-application response of the Council was broadly supportive and that the Council was uncooperative during the planning application. However, my decision has to be based on a consideration of the proposal itself, in planning terms. Similarly, whilst Interested Parties have raised a number of other concerns, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion.
34. In coming to my conclusion, that the proposal would not accord with countryside development plan policies, be contrary to the overall strategy for development and be unacceptable as regards highways safety are decisive and would outweigh the benefits. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

Darren Hendley

INSPECTOR