



Appeal Decision

Site visit made on 13 September 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/V2723/W/22/3300410

Southwick Grange, Hargill Lane, Finghall DL8 5NB

- 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 Richard Selwyn Sharpe against the decision of Richmondshire District Council.
 - The application Ref 22/00010/OUT, dated 8 January 2022, was refused by notice dated 7 May 2022.
 - The development proposed is described as outline planning approval for the construction of two dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the construction of two dwellings at Southwick Grange, Finghall DL8 5NB in accordance with the terms of the application, Ref 22/00010/OUT, dated 8 January 2022, subject to the conditions set out in the attached Schedule of Conditions.

Preliminary Matters

2. Outline planning permission is sought with matters of access, appearance, landscaping, layout and scale reserved for future consideration. I have had regard to the illustrative layout plan submitted but I have treated it as indicative.
3. Although the development description in the banner heading above reflects that on the application form, I have adopted a more concise description in my Decision, omitting superfluous elements which are not acts of development. In doing so, I am satisfied that I have not prejudiced the interests of either main party since the nature of the application and the matters reserved for subsequent consideration remain clear in my decision.

Main Issues

4. The main issues are:
 - Whether or not the proposed development would result in the loss of countryside to the detriment of the character and appearance of Finghall;
 - Whether or not the provision of the two dwellings proposed would represent an unacceptable quantum of development to the detriment of Finghall; and

- Whether or not affordable housing should be provided, and, if so, whether appropriate arrangements have been made.

Reasons

Character and Appearance

5. Finghall is a settlement that is laid out in a predominately linear form with most buildings running alongside West Moor Lane, Church Lane, Hargill Lane and Blewhouse Lane. There are exceptions to this with some buildings set farther from these roads, but a number of these buildings are nevertheless close enough to them that they remain part and parcel of Finghall rather than being isolated from it.
6. The site is an undeveloped parcel of grassland accessed via a track leading from a lane. Running alongside one side of the site is a line of trees. The site is located on the other side of the lane to most properties. However, opposite the site, on the same side of the lane as the site and beyond the line of trees, is a residential property and the grouping of buildings at Southwick Farm and Milton Lodge. In all directions other properties are close-by to the site, including residential properties.
7. The site is located south of the settlement's development limit and does not share a common boundary with it. Some neighbouring buildings are also beyond the settlement limit. However, with other buildings so close-by and situated farther south still, the development would not extend the built form of the settlement farther into the countryside in this direction. The proposal would, instead, develop a gap amidst other buildings. Consequently, when I visited the site which including travelling along the access track next to it, I gained no impression that I had left the confines of the settlement, crossed any physical barriers which clearly marked an end to the settlement, and entered open countryside. I acknowledge, however, that the development would result in the loss of the greenfield site itself, which has some intrinsic value but the resultant level of harm would be low and localised.
8. Therefore, the development would not result in a harmful loss of open countryside to the detriment of the character or appearance of Finghall or result in an isolated dwelling requiring particular justification. Rather, the development would constitute an acceptable incremental addition adjacent to the settlement. It follows that the development would be in accordance with Policy CP4 of the Richmondshire Local Plan Core Strategy, 2014 (CS). In summary, and amongst other things, this policy seeks to ensure that development is within or adjacent to settlement development limits and would not result in adverse effects upon the character of the settlement.

Quantum of the development

9. Finghall is a small settlement within a rural area with some, albeit limited, services. The evidence before me identifies that, as a cluster with other nearby settlements, Finghall forms a secondary service village within a wider settlement hierarchy.
10. Policy SP4 of the CS provides detail in respect to the scale and distribution of housing up to 2028. It may be that the applicable housing target attributed to this locality has already been exceeded and by some margin. However, Policy SP4 sets out, that the annual housing delivery target for Richmondshire is not a

ceiling and that additional housing sites can come forward should they be acceptable on their own merits. The detailed tabular breakdown of the distribution of the housing for the settlement hierarchy within Policy SP4 is presented as an expectation and not necessarily to be followed absolutely. Furthermore, should a development result in the housing delivery target being exceeded or cause a change to the expectation on distribution, Policy SP4 does not state that any specific justification is necessary.

11. With two dwellings proposed, the quantum of the development is low. Despite some deviation from the number and expected distribution of homes contained within Policy SP4 I have no substantive evidence before me that the addition of two further dwellings would cause harmful effects or pressures upon local services or facilities or cause an imbalance to the settlement's functioning.
12. As a result, the development would accord with Policies SP4 and CP4 of the CS. In summary, and amongst other things, these policies seek to ensure that development is proportionate with existing settlements and local service provision and establish housing completion and distribution targets within the district.

Affordable housing

13. The appellant has indicated a willingness to enter into a legal agreement to provide an affordable housing contribution. However, I do not have an agreement under section 106 of the Town and Country Planning Act 1990 before me.
14. Policy CP6 of the CS states that affordable housing will be expected on all housing sites where there is a net gain of dwellings. Policy CP6 states that the affordable housing should be delivered either on site or via a financial contribution dependent on the circumstances which are explained within the policy.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material planning consideration.
16. Paragraph 64 of the Framework states that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. In such designated rural areas, policies may set out a lower threshold of 5 units or fewer. The site may be within a designated rural area, however, Policy CP6 is inconsistent with the Framework because it does not set a lower threshold for the requirement within those areas or, in turn, a higher one for areas outside them.
17. Furthermore, in the context of whether there is a need for an obligation I must consider Regulation 122 of the Community Infrastructure Levy Regulations 2010 and whether such an obligation would meet the three tests set out within paragraph 57 of the Framework. Aside from the Policy CP6 wording and justification, I have not been provided with any supporting evidence or documentation that sets out affordable housing need in the district including

that, in this location, and having regard to paragraph 64 of the Framework, affordable housing is necessary for the minor development proposed.

18. In such circumstances I attribute significant weight to the content of the Framework, with which I have identified Policy CP6 to be inconsistent. As a result, and despite Policy CP6 seeking affordable housing provision in instances where a net gain in dwellings occurs, I find that a planning obligation to secure the provision of affordable housing would not be necessary to make this development acceptable in planning terms.

Other Matters

19. The lane off which the site is located is quite narrow and does not benefit from footpaths. However, this is the case elsewhere in the village and I find that it is part of its rural character. Both the lane and the track from which access would be taken may be trafficked by large vehicles. However, vehicular and pedestrian movements associated with the provision of two dwellings would be quite low and would add only modestly to existing movements. I also note, informed by the comments of the local highway authority and subject to the imposition of conditions, that the Council have raised no objections to the development on the grounds of highway safety. On the basis of the evidence before me and my own findings on my site visit, I have no reason to conclude otherwise.
20. Access to the development may be being gained via a public bridleway but I have no substantive evidence before me that in so doing the bridleway could not be protected in accordance with the advice at paragraph 100 of the NPPF. The relatively low vehicle numbers that would be likely associated with the development together with movements occurring for only a short stretch of the bridleway would limit the potential effects. Furthermore, the grant of planning permission does not authorise any obstruction to or interference with any public right of way.
21. In finding that the dwellings would constitute an acceptable incremental addition adjacent to the settlement and not isolated from it, restricting their occupation to essential rural workers is unnecessary. Such types of restrictions may exist at neighbouring properties but it is not for this appeal to determine whether or not such restrictions are appropriate.
22. Significant separation between the site and Park House exists and there are mature trees and plants on land between which provide screening. I have no reason to conclude this screening would be unlikely to remain in the future. Though the details of the layout and scale of the development are reserved for future consideration, I have no reason to conclude at this outline stage, that the living conditions of the occupiers of Park House would be unacceptably affected through overshadowing, a loss of privacy or noise and disturbance.
23. The site may have previously formed part of a quarry, but I have no substantive evidence before me that the development would be at risk from unacceptable ground conditions or levels of contamination. Furthermore, a condition in relation to site contamination is included in the schedule of conditions.

24. The potential for a change of use of land for use as a garden having taken place at a neighbouring property has little to do with the planning merits of this case.

Conditions

25. I have imposed standard outline planning permission conditions in respect of the submission of the reserved matters and time limitation (conditions 1, 2 and 3). I note that in the Council's suggested conditions, access is not identified as a matter requiring detailed consideration at the future reserved matters stage. It is clear from the evidence before me that access is not being applied for under this application and therefore condition 1 of my schedule requires its future application. In so doing I am satisfied that neither party's interests would be prejudiced. For clarity, I have imposed condition 4 to define the maximum number of dwellings permitted and that they must be built within the bounds of the site.
26. In order to minimise the pollution and health risks which could arise from unexpected site contamination, I have imposed condition 5. Condition 6, placing a limit upon noise emanating from construction works, is necessary to ensure that the effects on the living conditions of neighbouring occupiers are acceptable during the construction phase. Condition 7 is imposed in the interests of highways safety and to clarify an access visibility splay requirement that the reserved matters stage submissions must ensure.
27. I have not imposed the suggested condition requiring the submission and approval of access, parking and turning arrangements. Details of access and layout are reserved for consideration at a later date and there is no reason so fundamental that requires additional control at this outline stage. Where necessary and in the interests of precision or clarity I have made some general amendments to the wording of the conditions.

Conclusion

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
29. I have identified that there are policies within the development plan most important for determining the application which are out of date by reason of their degree of inconsistency with the Framework. In such instances paragraph 11(d) of the Framework is engaged. There are no relevant Framework policies protecting areas or assets of particular importance in this case.
30. The dwellings proposed would make a contribution to housing supply in the area, although the weight that I attribute to this is moderated given the evidence before me on local housing supply and delivery.
31. I have concluded within the main issues that some limited harm would result from the loss of the greenfield site and its intrinsic value but that this harm would not amount to a harmful incursion into the countryside to the detriment of the character or appearance of Finghall.
32. However, the limited adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

33. I have identified that there would be conflict with Policy CP6 of the CS as affordable housing would not be delivered. However, I have attributed significant weight to the content of the NPPF in respect to affordable housing provision and have concluded in the main issues that affordable housing is not necessary to make this development acceptable. In turn, and in this case, material considerations indicate that the development plan should not be followed and I conclude that the appeal is allowed subject to the conditions in the attached Schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) Details of the access, 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.
- 2) 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.
- 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 limited to no more than 2 dwellings on the land bound red on the submitted Location Plan and Illustrative Layout Plan.
- 5) If contamination is found or suspected at any time during development all works shall cease and the local planning authority shall be notified in writing immediately. No further works shall be undertaken, or the development occupied until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority.

Where remediation is necessary, a scheme for the remediation of any contamination shall be submitted and approved by the local planning authority before any further development occurs. The development shall not be occupied until the approved remediation scheme has been completed and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.

- 6) No construction works audible at or beyond the site boundary shall take place outside the hours of 08.00 to 18.00 Monday to Friday inclusive and 08.30 to 13.30 on a Saturday or at any time on Sundays or Public/Bank Holidays.

- 7) There shall be no access or egress by any vehicles between the highway and the application site until minimum splays are provided giving clear visibility of 45 metres measured along the centre line of the adjacent lane from a point measured 2.4 metres down the centre line of the access. 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.

End of Schedule