



Appeal Decision

Site visit made on 4 October 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/E2734/W/22/3301603

Land to the East of Hill Top View, Hill Top Lane, Pannal, HG3 1QG

- 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 David Hayton against the decision of Harrogate Borough Council.
 - The application Ref: 21/04672/FUL, dated 25 October 2021, was refused by notice dated 7 April 2022.
 - The development proposed is described as: Proposed new build dwelling with associated access and hard and soft landscaping and alterations to land levels.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for new residential development having regard to the development plan and, in particular, whether the proposal constitutes an example of exceptional quality and outstanding design; and
 - The effect of the proposal on the safe operation of the highway in the vicinity of the appeal site.

Reasons

Whether the site is a suitable location

3. The appeal site is part of a small field adjacent to Hill Top Lane and lies to the south west of Harrogate and north west of the settlement of Pannal/Burn Bridge. The appeal site is not within the Green Belt but is within an area that is designated as a Special Landscape Area which is considered to have a high sensitivity to inappropriate forms of development that would potentially adversely impact on the quality of the area.
4. Policy GS1 of the Harrogate District Local Plan 2020 (the Local Plan) sets out that the Council intends to deliver a minimum of 13,377 dwellings during the plan period to 2035. Local Plan Policy GS2 sets out a settlement hierarchy for the district that seeks to focus growth within the district's main settlements, within settlements on key public transport corridors, and within a proposed new settlement. In this hierarchy, Harrogate is identified as a main settlement and Pannal is identified as a service village.

5. Policy GS2 states that places not identified in the settlement hierarchy are considered to be part of the wider countryside, where development will only be appropriate if permitted by other policies within the Local Plan, a neighbourhood plan, or national policy. It is not in dispute that the appeal site lies beyond any of the development limits defined by Local Plan Policy GS3, which reiterates that outside development limits new development will only be supported where expressly permitted by other policies in the Local Plan, a neighbourhood plan, or national policy.
6. Within this context, the appeal site is not normally one where new residential development would be permitted. However, as set out above, in these circumstances both Policies GS2 and GS3 include an exception for development that complies with national policy.
7. Local Plan Policy HP3 seeks to ensure that new development incorporates high quality building and urban and landscape design that protects, enhances, or reinforces those characteristics, qualities, and features that contribute to the local distinctiveness of the district's rural and urban environments. The policy sets out several criteria against which proposals will be assessed. Of relevance is Criterion E which makes allowance for design of exceptional quality that would significantly enhance its immediate setting to deviate from the architectural features, materials, and traditional building techniques that contribute to the local distinctiveness of the area.
8. Paragraph 79 of the National Planning Policy Framework (the Framework) sets out that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of local communities. Paragraph 80 of the Framework states that the development of isolated homes in the countryside should be avoided unless certain circumstances apply. One such circumstance is where the design is of exceptional quality, in that it is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
9. There is some disagreement between the parties as to whether the appeal proposal would represent an isolated home in the countryside. The Council contend that it is not and, as such, would not fall to be considered in the context of Paragraph 80 e) of the Framework.
10. The Framework does not define what is meant by isolated, however, this matter has been considered by the Court of Appeal in *Braintree DC v Secretary of State for Communities And Local Government, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610* and more recently in *City & Country Bramshill Ltd v Secretary of State for Housing, Communities And Local Government & Ors [2021] EWCA Civ 320*. The judgement in *Braintree* established that the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement. This was re-affirmed in *Bramshill*, which also clarified that remoteness from other dwellings or buildings was not an appropriate test in the context of this policy. Both judgements, nonetheless, confirm that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.

11. Although the site has a Pannal postal address, it was apparent from the site visit that it is located a significant distance beyond this settlement. The appeal site does, however, directly adjoin the development boundary for Harrogate and a site that is allocated for housing development in the Local Plan. I observed that this site is currently partly developed with construction ongoing.
12. In terms of Local Plan Policy GS2, the appeal site is in the countryside for policy purposes. Having regard to the judgements in *Braintree* and *Bramshill*, it is not within a settlement as defined by the development limits set out in the Local Plan and although it is in proximity to other buildings, the proposal would fall to be considered as a new isolated home in the countryside for the purposes of Paragraph 80 of the Framework.
13. Paragraph 80 e) of the Framework sets out two criteria, namely that the design must be truly outstanding and that the design would significantly enhance the immediate setting. Both of these must be met for the exception to apply.
14. The appeal proposal consists of a dwelling with a two storey element under a pitched roof at ground level which would have two single storey additions, with lean-to roofs, to accommodate a boot room/lobby and a double garage. This element is designed to emulate a traditional, stone built, barn structure. The second element is a subterranean section that would contain the majority of the living accommodation. This would have a flat, green, roof. The habitable rooms would face into a sunken courtyard/garden area with a terraced grass slope returning to ground level and retaining walls to the remaining two sides. On the opposite side of the lower level, the ground would be cut away between small retaining walls to allow light into high level windows in a circulation corridor and study. In order to facilitate the construction of the subterranean element of the proposed house, the existing landform of the field would be re-profiled to provide sufficient depth.
15. The appellant's case leans heavily on the precedent of a similar building in the Cotswolds that was granted planning permission in 2010 on the basis that this was recognised as an outstanding design. The submitted evidence also includes images of two other similar appearing schemes which show an agricultural styled building above ground and further accommodation sunk into the ground. In this respect the appeal proposal is not original or novel. The fact that a previous scheme elsewhere has been found to represent outstanding design does not automatically mean that a different scheme that adopts a similar concept would also be outstanding. No evidence has been put to me that would indicate that the appeal proposal has at any point been subject to an independent design review process to assess the proposal and inform its design.
16. From the submitted Design and Access Statement it is clear that some thought has been given to making the proposed new dwelling as unobtrusive as possible. The design approach taken, however, would result in a number of compromises in terms of the layout of the building. The entrance to the dwelling would be either through the garage or through a boot room via a door located in a subsidiary element of the building. The double height living area within the above ground element would have its principal window orientated towards the north east and only two small, slit, windows in the opposite south west facing elevation. As a result, this large living space would receive very

limited sunlight and have relatively low levels of daylight given the overall size of the space.

17. In addition to this, the principal elevation of the subterranean section of the house would be staggered with the intent, as set out in the Design and Access Statement, of reducing any perception from wider vistas of a more dominant linear approach. Although this would have the effect of breaking up a long façade, the consequence of this would be that the windows to some of the bedrooms would be inset behind other elements of the building, in some cases quite deeply, which would also result in lower daylight light levels in these rooms. The potential effectiveness of the daylighting arrangements to the lower ground floor study is also unclear as this would be orientated towards the north west with the cut away ground level, as shown on the site sections drawing, forming only a small light well.
18. There is a logic to the design approach taken in terms of minimising the visibility of a large new dwelling in a visually sensitive landscape, albeit that this is heavily influenced by other schemes elsewhere, and taken in isolation, the external appearance of the proposal is well proportioned and not inherently objectionable, or a bad design. However, the scheme is not especially original in its concept and due to the compromises identified above, and the consequences of these on the internal layout, I find that the overall design of the proposal falls short of reaching the very high bar of being truly outstanding.
19. In order to meet the exception in Paragraph 80 e) of the Framework, a proposal must meet both limbs of the test set out in that paragraph. As I have found that the proposal would not represent truly outstanding architecture, the second limb of the test is somewhat moot. Nonetheless, in the interests of completeness, I will address the question of whether the appeal proposal would significantly enhance its immediate setting and be sensitive to the defining characteristics of the area.
20. The appeal site is located in an area of countryside just outside the built up area of Harrogate. It sits just at the top of the steeply sloping valley sides running down to the Crimple Beck. The area is comprised of a mosaic of small to medium sized fields with boundaries comprised of a mixture of hedgerows, post and wire fences, post and rail fences, and some elements of low stone walling. Tree cover is predominantly present along field boundaries and linear features such as watercourses and roads. Individual buildings and small groups of buildings are generally located adjacent, or close to, the roads. There is no street lighting on the roads and despite the proximity of the site to the built up area of Harrogate, a combination of the landform and intervening trees results in the built up area not being visually prominent and the locality of the appeal site having a very rural appearance.
21. The surrounding area is designated as a Special Landscape Area and the Harrogate District Landscape Character Assessment 2004 identifies that it is important both to the rural setting of Harrogate and in preventing the coalescence of Pannal with Harrogate. It also notes that the rural, pastoral, landscape is sensitive to the change due to new development extending the urban edge and that there is limited capacity for the area to accept additional development without adverse change to its character.
22. Local Plan Policy NE4 expects new development in identified Special Landscape Areas to avoid significant loss of key characteristics that contribute to the

quality of the area and the setting of Harrogate. It also seeks to ensure that proposals are not only linked to existing settlements but also designed to integrate the urban edge with the countryside whilst enhancing the appearance of the urban fringe.

23. The proposal was accompanied by a Landscape Appraisal & Proposals report. However, this does not purport to be a Landscape and Visual Impact Assessment and does not address the effect of the proposal on the landscape or its potential visual effect.
24. In terms of the built form above ground, I have noted the Council's comment that agricultural buildings tend to be grouped together rather than being single elements in the landscape. Whilst there are groups of buildings in the area, I also saw when I visited the site that, as referred to by the appellant, in the vicinity of the appeal site there are single isolated barns. The proposed above ground element would also be orientated to the road in a similar manner to other buildings present in the area. In this context, the appeal proposal would not be uncharacteristic. The proposed planting and soft landscaping would also be not dissimilar in form and appearance to the vegetation seen around other nearby buildings.
25. Nevertheless, in order to provide the below ground element of the new dwelling it is proposed to carry out relatively extensive remodelling of the landform across a large proportion of the site and the wider field of which it forms part. The resulting more tightly curved contours required to accommodate the new dwelling and effectively raise the land level over the appeal site would appear less natural than the current gentle fall across the site and the proposal to blend these back to the natural ground levels at the site boundaries would create a bulge in the landform inconsistent with the general levels. This would be particularly evident from the public right of way footpath that crosses the site as the contours would be notable steeper from this viewpoint.
26. This visual change would also be exacerbated by the long retaining wall running from the proposed new, above ground, building and which is shown as projecting above ground level and then terminating within the field to the south west of the building. At this point it would change to a timber stockproof fence which would subdivide the current field and delineate the private space associated with the new dwelling. Whilst it is understandable that there would be a desire to delineate the private space of the house, as the proposed wall merely terminates some distance from the building and the proposed fencing would not extend as far as the field boundary with Hill Top Lane, the resulting subdivision would be inconsistent with the surrounding field pattern.
27. That said, the scale of the changes would be relatively minor and may not be apparent to a casual observer. Nor has the Council identified any distinctive features of the landscape that would be lost as a result of the development. Overall, the proposal would consequently have a broadly neutral effect on the character of the landscape. However, the second limb of the test in Paragraph 80 e) of the Framework requires that any proposal significantly enhances its immediate setting. In this respect, the proposal also falls short of meeting the requirements of the Framework.
28. The appellant suggests that, as the adjoining land to the north is being developed for housing, allowing this site to have an individually designed single dwelling that would read as an isolated barn would have the effect of protecting

the agricultural feel of this portion of the Crimple Valley Special Landscape Area. It is further suggested that this would allow the Council to meet its stated key aim of protecting the character of the area and its role in separating Harrogate from Pannal and the provision of a rural setting to the urban edge. There is some logic to this argument in that Hill Top Lane forms a clear boundary. However, the Council has a supply of housing land in excess of 7 years and, given that the Local Plan is very recent and Policies GS2 and GS3 are very clear in restricting new development to sites within the development limits of settlements, protecting the character and role of the area could equally be achieved by not developing the site. Consequently, I do not find this a persuasive argument.

29. Drawing these strands together, having regard to Policies GS2 and GS3 of the Local Plan, the appeal site is not a location where new residential development would normally be permitted, unless specifically allowed for by national policies. I have also found, as set out above, that the appeal proposal does not meet the requirements of either limb of the exception in respect of isolated homes in the countryside set out in Paragraph 80 e) of the Framework.
30. I therefore conclude that the appeal site is a not suitable location for new residential development having regard to the development plan and, in particular, whether the proposal constitutes an example of exceptional quality, and outstanding design. It would not comply with the relevant requirements of Policies GS2, GS3, HP3 and NE4 of the Local Plan or the requirements of the Framework.

Highway safety

31. The principal point in dispute in respect of this matter is whether a suitable visibility splay can be provided at the proposed site access point. The reason for refusal given by the Council on the Decision Notice refers to Policies TI1 and HP4 of the Local Plan. Policy TI1 is a strategic policy which seeks to promote sustainable transport and Policy HP4 addresses the effect of development on amenity in terms of privacy; daylight; noise, odours, and disturbance; and the provision of amenity space. Neither of these policies makes either direct or indirect reference to highway safety or visibility splays. Neither the planning officer's report, nor the Council's Statement of Case indicates in what way these policies are offended by the appeal proposal. Consequently, I do not consider that they are relevant to the case before me.
32. The Framework, however, seeks to ensure that new development has a safe and suitable access for all users and to prevent development which would have an unacceptable impact on highway safety.
33. Hill Top Lane is a single carriageway road with two way running. It is subject to the national speed limit of 60 mph at this point. The highway has a relatively straight alignment where it passes the proposed access point but there is a shallow bend toward the south east end of the large field of which the appeal site forms a part. A short distance to the north west is the junction with Whinney Lane which leads towards Harrogate.
34. There is no evidence before me regarding the number of vehicle movements on Hill Top Lane although I saw during the time that I was at the site, from the late morning until early afternoon on a typical weekday, that although the traffic was light, there were relatively frequent vehicle movements. I observed

that vehicles travelling from the direction of Pannal and Burn Bridge tended to slow for the bend to the south of the appeal site and then accelerate once the road straightened and that vehicles travelling towards Pannal generally started to brake for the bend once they had passed the proposed access point to the appeal site. I recognise that this is only a snapshot of the conditions at the time I was present at the site and that there may be differences at other times of day, however, there is no substantive evidence that would indicate that what I saw did not represent relatively typical road conditions.

35. The Council contend that a 2.4 by 160 metre visibility splay is required at the access point to the appeal site. It is common ground that this cannot be achieved due to the alignment of the road to the south west of the appeal site where the bend curtails forward visibility. However, the Council's position is based on comments made by the Highway Authority in respect of an earlier planning application for a similar development on the site.
36. The appeal proposal included a Visibility Splay Assessment which incorporates the results of a speed survey carried out on Hill Top Lane. This information was not available or included in the previous application for the site. The 2.4 by 160 metre visibility requirement is based on the standards set out in the Design Manual for Roads and Bridges for vehicle speeds of up to 50 mph. Where the design speed of the road, or the actual achievable speed on the road, is lower than 50 mph a reduced visibility splay can be appropriate.
37. The speed survey carried out by the appellant, the results of which are not challenged by the Council, indicates that the 85th percentile speed on Hill Top Lane is 39 mph for northbound vehicles and 38.4 mph for southbound vehicles. For these road speeds the Design Manual for Roads and Bridges indicates that a 2.4 by 120 metre visibility splay is required. The drawing included in the Visibility Splay Assessment demonstrates that this can be achieved at the appeal site.
38. I have noted that the Highway Authority did not respond to the Council's consultation on the appeal proposal before the planning application was determined. However, I have been provided with correspondence between the appellant's highways consultant and the Highway Authority that indicates that, based on the information provided, the Highway Authority are satisfied that the proposed 2.4 by 120 metre visibility splay is acceptable. From the evidence before me, and from what I observed during the site visit, I would agree that normal domestic use of the site of the proposed access would not result in an unacceptable impact on highway safety.
39. I therefore find that the proposed development would not cause harm to the safe operation of the highway in the vicinity of the appeal site. It would comply with the relevant requirements the Framework.

Conclusion

40. I have found that the appeal site is not a suitable location for new residential development having regard to the policies in the development plan and would not meet the requirements of Paragraph 80(e) of the Framework.
41. This is an important matter which leads me to find that the proposal would not comply with the development plan when taken as a whole, notwithstanding

that I have found that the proposal would not adversely highway safety and may comply with other policies in the development plan.

42. In the circumstances of this case there are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan.
43. For the reasons set out above, I therefore conclude that the appeal should be dismissed

John Dowsett

INSPECTOR