



Appeal Decision

Site visit made on 17 January 2023

by Susan Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 9 March 2023

Appeal Ref: APP/W9500/W/22/3308341

Land north east and east of High Street, Egton, Whitby YO21 1UA

- 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 Egton and Mulgrave Estates against the decision of North York Moors National Park.
 - The application Ref NYM/2021/0923/OU, dated 24 November 2021, was refused by notice dated 13 April 2022.
 - The development proposed is outline application for construction of 9 no. dwellings with associated accesses, parking and amenity spaces together with public car park and mixed-use industrial units with associated access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the banner heading above differs from that set out on the application form and more accurately describes the proposed development, as agreed with the Council.
3. The application was submitted in outline form, however neither the application form nor description indicate any matters to be reserved for future approval. The statements of case refer to all matters being reserved for subsequent determination except for access. I have therefore considered the appeal on this basis. In doing so, I have had consideration for the most recently submitted block plan¹. I have considered the plan as an indication of how the site could accommodate the proposed development.

Main Issues

4. The main issues in the consideration of this appeal are:
 - i) Whether the appeal site is in an appropriate location for housing;
 - ii) Whether the appeal site is in an appropriate location for employment development, including effects on living conditions;
 - iii) Whether the car park is appropriately located and would meet needs;
 - iv) The effect of the proposed development on the character and appearance of the area; and
 - v) The effect of the proposed development on heritage assets, including the setting of Egton Conservation Area (CA) and archaeological potential.

¹ 02-2021-1001 Rev D

Reasons

Location and Spatial Strategy for Housing

5. North York Moors National Park (NYMNP) Local Plan 2020 (LP) strategic policy M supports the delivery of new homes through windfall development on suitable small sites in listed settlements amongst other criteria. The supporting text explains that, as a protected landscape, the conservation of open countryside and important undeveloped spaces within villages is a fundamental part of the first National Park purpose. The National Planning Policy Framework (the Framework) at paragraph 176 requires that great weight should be given to conserving the National Parks and identifies them as areas where the scale and extent of development should be limited. Paragraph 177 indicates that permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.
6. Explanatory text paragraph 7.24 details the housing strategy, and at point b) it allows for a more limited amount of housing on suitable small sites in larger villages, to help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the environment. The Housing Policies Guide (p.121) summarises the approach for larger villages, allowing for 'principal residence' housing² on suitable sites within the main built up part of the village, and 100% affordable housing on exception sites adjacent to the village. Egton is included in the list of larger villages following LP strategic policy B. Paragraph 3.12 explains that no development boundaries are defined, and the suitability of a site for development is defined on a case by case basis. LP policy CO7 permits housing on suitable small sites within the main built up area of the village only.
7. The appeal site comprises an open field to the north side of the village just beyond where the High Street forks off in two directions to the A171. It is bounded to the south by a motor garage with associated workshop buildings and outside storage areas, and to the north by a detached dwelling 'Flushing Meadow'. Beyond, there are two further detached dwellings known as 'Abbotsford' and 'Moorfield'. Adjacent to these dwellings and close to the northern edge of the appeal site is the village recreation ground with a pavilion, play area and sports court. The east side of the site comprises open countryside and to the west there lies open space and Egton plantation.
8. The road speed limit of 30mph begins at the northern extent of the recreation ground, adjacent to Flushing Meadow. Here the character of the area begins to transition from open and undeveloped countryside to the more densely built up historic core of the village, centred around the High Street. On my site visit, I noted the stone-mounted village sign at the southern end of the existing parking layby, and the appeal site extends well beyond this in both directions. Nonetheless, the location of such street furniture is not necessarily indicative of the built up area of the settlement. It is the scale and rural appearance of the appeal site which sets it apart from what might be considered a small infill site. The three dwellings beyond are markedly different in character and appearance to historic core of Egton, and suggest outlying residential development not within the main built up part of the village.

² A form of market housing which can be lived in by anyone, but controlled by a mechanism which ensures it is their main residence.

9. There is limited evidence before me to indicate what the Council would consider to be a 'suitable small site' in the context of LP policy CO7. I note the explanatory text to strategic policy M (paragraph 7.31) sets out that the scale should be appropriate to the size and function of the settlement, and this will generally be sites capable of accommodating no more than five dwellings in large villages. Whilst I accept that five dwellings could not be contrived as a ceiling for development, it provides a useful indication of what might be considered a small site. Nine dwellings are proposed on around 0.45ha, the overall site area being 1.2ha, which also includes proposals for employment development and a car park together with associated access.
10. The village itself contains a good number of services relative to its size. These include the aforementioned recreation ground, vehicle service and repair garage, agricultural engineers, two public houses, church, parish hall, surgery and primary school. There is a bus service linking the village to Whitby and the nearby railway station at Egton Bridge. Some level of additional development would therefore be compatible with the function of the village and would assist in supporting these local services. I also acknowledge that a proportion of the area of the site proposed for housing is currently a car park, and not greenfield agricultural land. However, I consider the overall size of the site to be disproportionate to the scale of the village of Egton.
11. In conclusion, the appeal site is inappropriately located outside the main built up part of the village. The scale of the proposed residential development would be excessive and would not comprise a suitable small site, nor is it an exceptions site for affordable housing, contrary to the spatial strategy set out in LP strategic policy B, strategic policy M and policy CO7.

Employment Development

12. LP policy BL1 part A supports new buildings for employment development within the main built up area of larger villages where there is no other suitable accommodation available in the locality. Part C supports employment development within the open countryside where it reuses existing buildings or where it forms a small extension to an existing building. All proposals for employment development will be expected to demonstrate that the scale and location of the proposal would not be detrimental to the character and appearance of the area, it can be safely accessed, there is sufficient storage and parking/turning space, and there is no unacceptable harm in terms of effects on the immediate neighbourhood.
13. I have already found that the appeal site does not lie within the main built up area of the larger village of Egton. I acknowledge that the area of the appeal site proposed for employment development is situated immediately adjacent to existing employment premises, and in this respect the location of this element of the proposals is logical.
14. Strategic policy K of the LP supports proposals which provide flexibility for established rural businesses to diversify and expand. However, there is a lack of evidence before me to suggest that the proposed development would form an extension to an existing building, nor that it would be associated with the existing uses here; it is proposed as speculative. Whilst LP policy BL1 does not specifically require a need to be demonstrated, paragraph 85 of the Framework states that sites may have to be found adjacent to existing settlements if local business and community needs are to be met.

15. It has been put to me that the appellant is regularly approached by new and existing businesses in the area who are seeking to expand or require new premises. Notwithstanding this, limited evidence is before me regarding these enquiries including the type of businesses and where they are currently located. Additionally, it has not been adequately demonstrated whether there is other suitable accommodation available nearby as required by part A3 of LP policy BL1.
16. The proposed units would create an unspecified level of employment, some of which may be to local people. The development could provide for the provision of start-up units, which are supported by strategic policy K of the LP. The units would assist in creating local investment and in fostering the economic and social well-being of the local community in accordance with policy K, and paragraphs 81, 84 and 85 of the Framework. However, there are few assurances within the appeal submission that the proposed development would bring the anticipated benefits. Furthermore, there are a number of other factors weighing against the proposal in this location, including effects on the character and appearance of the area and the archaeological potential of the site which I consider later in this decision.
17. Part 4 of LP policy BL1 requires all employment development proposals to demonstrate that there would be no unacceptable harm in terms of noise, activity or traffic generation to the immediate neighbourhood. The proposals are flexible in terms of final use, and are in outline form only. The proposed location of the buildings, to the rear of existing employment premises, would be situated away from existing residential properties. Conditions could require a noise survey, as well as appropriate mitigation which might include noise attenuation screening and limiting the type of use or activities that could be carried out. As such, this matter when considered in isolation would not justify rejection of the proposals.
18. Overall I find that whilst there would be some economic and social benefits associated with the proposed employment development, the level of such benefits nor a need for the units has not been established. The site does not lie within the main built up area of the larger village of Egton. It fails to meet the relevant criteria within policy BL1 of the LP and, in turn, is contrary to paragraphs 81, 84 and 85 of the Framework.

Car Park

19. Policy CO3 of the LP supports new parking facilities where they meet a number of criteria, including solving existing parking problems, a justification of need for both communities and visitors, and their effect on character and appearance and heritage.
20. The car park would provide a replacement facility to the existing layby situated to the High Street frontage of the appeal site. The evidence indicates that the existing facility is well used, serving users of the recreation ground, the garage and other local services, as well as visiting walkers. On the day of my site visit the layby was full and there was overspill onto the highway. Together with the large number of vehicles parked outside the service garage, I found the propensity of vehicles parked in this location to have a negative effect on the character and appearance of the area, as well as the potential to cause highway safety issues.

21. I understand that the present car park was previously leased by the appellant to Scarborough Borough Council but was surrendered in February 2020, and as such the appellant is able to close the car park at any time. In the event of closure, more vehicles would park within the highway further exacerbating the issues.
22. It is proposed to situate the replacement car park alongside the existing garage. Subject to a suitable landscaped boundary, there would be visual and environmental benefits to providing car parking away from the main road. With appropriate directional signage (which could be required by condition) a larger replacement car park would be of benefit to the community and visitors. A larger car park could assist in reducing demand for on-street parking when events take place at the nearby recreation ground (such as cricket matches). I acknowledge the fears of local residents regarding anti-social behaviour and crime, but there is no evidence before me to substantiate this, and I note that the North Yorkshire Police Designing out Crime Officer supports this element of the proposals.
23. There is limited evidence before me to indicate that the proposed site of the car park is the only way to solve existing identified parking problems in accordance with parts 1 and 3 of LP policy CO3. Nonetheless given that it would be primarily occupied by users of the recreation ground and the garage, and no previously developed sites have been put to me, the location would be broadly compatible with the policy.
24. Notwithstanding my conclusions on the residential and employment elements of the proposed development, I find that the proposed replacement car park would be acceptable subject to suitable surfacing, landscaping, signage, lighting and access arrangements. In isolation, it would be in broad compliance with LP policy CO3.

Character and Appearance

25. The village of Egton has a compact and linear nature, with a range of stone buildings concentrated around the central junction. Wide grass verges lend a spacious character to the surroundings of the relatively high density dwellings. An important part of the character of the village is defined by its surroundings, an agricultural landscape within undulating landform, with outlying views framed by the hills which characterise the NYMNP landscape. This part of the NYMNP has a patchwork of medium sized arable fields, which are interspersed with copses of trees and hedging. The majority of the village is designated as a CA, which I consider in the next section.
26. The application site comprises an open field situated behind a layby parking area lined by trees and hedging. Extensive views are possible across the east of the field, towards more distant hills. It is within the front part of this field that the residential dwellings are proposed, with a car park to the rear. Behind the existing garage is an enclosed grassed paddock. The entirety of the open space forms an important part of the setting of the village when entering from the north towards its historic core, and I find it makes a positive contribution to its setting.
27. The proposals would inevitably result in irreversible urbanisation of the rural character of this part of Egton. Whilst I accept the plans are indicative only, the part of the site which is most visible from the road is long and narrow, and the

plans indicate that it would be almost entirely lined with dwellings. These are expected to be detached and semi-detached dwellings set behind driveways. Such development would not reflect the existing grain of development in the village.

28. There would be adequate space around the dwellings for gardens to front and rear, allowing for some landscaping and suitable boundary treatment to break up the built development. However it is unclear whether the trees and hedges which currently line the existing layby could be retained as part of the development, given that the Highway Authority have concerns regarding visibility splays. Removal of the existing vegetation would further unacceptably alter the character of this part of the village.
29. The site proposed for the employment development, behind the garage, would be less conspicuous within the street scene and consequently result in less harm to the character and appearance of the village and its setting. I am unable to fully assess the visual impacts of the proposed industrial buildings on the village and the wider landscape at this outline stage. Nonetheless, I have already found that the proposed use has not been adequately justified in this countryside location. As set out in the previous section I find the replacement car park to be acceptable in terms of character and appearance subject to further details to be provided at reserved matter stage and by conditions.
30. I conclude on this main issue that the residential element of the proposed development would result in unacceptable harm to the character and appearance of the area. This conflicts with LP strategic policy M which requires proposals to be of a high quality design to ensure that the character and distinctiveness of the built environment and local landscape are maintained, as well as paragraphs 130 and 176 of the Framework which require development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Heritage Assets

31. The appeal site immediately adjoins the northern edge of Egton CA and the surroundings in which the CA is experienced would therefore be directly affected. I am obliged to pay special attention to the desirability of preserving or enhancing its character or appearance³. Whilst the Council have provided a map and copy of an Article 4 direction, there is no detailed CA appraisal before me. On my visit to Egton, I found the character of the CA, which encompasses almost the entire village, to be characterised by traditionally constructed and predominately terraced stone buildings fronting High Street. Many are set to the back edge of the footpath behind wide grass verges or front gardens giving the village a spacious character. An important part of its character is defined by its rural surroundings as I have previously described, which make a positive contribution to the setting of the CA.
32. The appellant has provided a limited assessment of its significance. I would agree that the presence of parked cars both in the layby and on street around the garage business has a negative effect on both the character and appearance of the CA, and its removal/relocation would therefore be of benefit in this respect. However, the assessment lacks consideration of the effects of the proposed dwellings and industrial units on the significance and setting of

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

the CA. Whilst I acknowledge the proposals are in outline form, the evidence before me is insufficient to establish such effects. As stated in the previous section, the indicative arrangement of dwellings would not respect the existing grain of the historic core of the village.

33. The use of a proportion of the appeal site for the Egton Show also gives it a communal heritage value. Whilst I acknowledge that the Egton Show Committee did not object, and in isolation the potential relocation of this annual event would not be determinative, it adds a further degree of negative weight to my considerations.
34. Paragraph 194 of the Framework sets out that where there is potential for archaeological interest, an appropriate desk-based assessment and, where necessary, a field evaluation should be undertaken. Paragraph 203 requires the effect of a proposal on the significance of non-designated heritage assets to be taken into account, and for regard to be had to the scale of any harm or loss. The appellant's design and access statement includes a section on archaeology, noting that the area of land proposed for the industrial units features on the Historic Environment Record (HER), and it is believed to be a ridge and furrow feature. Furthermore, the response from the Council's Building Conservation team indicates the potential presence of the 12th century settlement of Egton (although this is unverified). Whilst generic information has been provided about ridge and furrow features, there is no specific assessment of the appeal site nor a copy of the HER before me.
35. Given that the proposals would require intrusive below-ground works to enable their construction, there is a risk that important archaeological remains may be encountered and any adverse impacts are likely to be permanent and irreversible in nature. The presence of archaeological features need not prevent development when considered in isolation. However I would not be content to leave archaeological investigations to a condition, given the known significance of the ridge and furrow feature and the potential for finds relating to the medieval settlement of Egton. Given that it is not currently possible to establish the significance of any archaeological features or remains which may survive, a pre-determination archaeological investigation would be necessary.
36. Overall, the evidence before me is unsatisfactory in terms of its assessment of heritage assets. The proposed development would fail to preserve or enhance the character or appearance of the CA, and without further investigation, it also has the potential to result in harm to archaeological features. The impact on the CA as a whole would be less than substantial within the meaning of Paragraph 202 of the Framework given that the harm would be localised to the northern extent of the CA, but nevertheless of considerable importance and weight.
37. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. These include the contribution to the NYMNP housing supply and economic benefits arising from the use of the industrial units. There would also be benefits arising from the provision of a larger purpose built car park and associated visual and environmental effects associated with the removal of the current layby and on-street parking. However the harm to heritage assets, which paragraph 199 of the Framework requires me to attach great weight, would not be sufficiently

outweighed by such benefits. Harm would arise both to the setting of the CA and to archaeological features (both known and unknown).

38. Given the above and in the absence of any significant public benefit, I conclude that the proposed development would fail to preserve the character or appearance of Egton CA. This would fail to satisfy the requirements of the Act, paragraph 199 of the Framework and conflict with strategic policy I and policy ENV11 of the LP which seek for developments to conserve heritage assets and their setting in a manner appropriate to their significance, including to wider historic landscape character (including features associated with the area's farming past), archaeological sites and CAs.

Other Matters

39. The Council consider that allowing the proposals would make it increasingly difficult to resist future applications in the NYMNP. However, each proposal must be considered on its own merits, with regard to other material considerations including positive benefits which may outweigh harm. The nearby appeal decision⁴ quoted to me is of a different scale and type of development and is within the built-up part of the village therefore I give it limited weight. As I have found the appeal unacceptable for other reasons, I do not consider this matter any further.
40. The appellant has highlighted the presence of relatively recent terraced housing at Browns Wood Cottages which was developed outside the village and lies broadly opposite the appeal site. However the evidence indicates that this was an affordable housing exceptions site, and there are no further details before me that would indicate direct relevance to the determination of the appeal.
41. The Council's officer report includes a recommended reason for refusal relating to highway safety, but it was not included in the published decision notice. From the evidence before me I am unable to establish why this was the case given the outstanding concerns of the Highway Authority which relate to a number of matters including visibility splays and detail of accesses. I have also had regard to the numerous third party representations relating to highway safety matters. As access is a matter to be considered, I am not satisfied that it has been demonstrated that safe and suitable access to the site can be achieved for all users in accordance with paragraph 110 of the Framework.
42. I note that the Lead Local Flood Authority requested further information in order to establish whether drainage arrangements would be acceptable. Additionally, the Council's ecologist requested a preliminary ecology appraisal. Whilst these matters do not form reasons for refusal the lack of information adds further weight to my considerations against the proposals.

Conclusion

43. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Susan Hunt

INSPECTOR

⁴ APP/W9500/W/22/3304496, 13 December 2022