

Appeal Decision

Hearing Held on 21 February 2023

Site visit made on 21 February 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/E2734/W/22/3307127

Woodland View, York Road, Flaxby HG5 0RR

- 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 Ben Holmes (Holmes Planning Ltd) against the decision of Harrogate Borough Council.
 - The application Ref 22/02517/OUT, dated 24 June 2022, was refused by notice dated 25 August 2022.
 - The development proposed is outline application for up to 5 eco-custom self build homes with all matters reserved.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Harrogate Borough Council against Mr Ben Holmes (Holmes Planning Ltd). This application is the subject of a separate Decision.

Main Issues

3. The first main issue is whether the site is suitable for the proposed development having regard to accessibility to services and facilities. The second is the effect of the proposal on the character and appearance of the area.
4. The third is the contribution that the proposal would make to the provision of plots for self-build and custom housebuilding having regard to the supply of and demand for such sites within the area for such housing. The fourth is whether the loss of Grade 2 Agricultural Land is justified.

Reasons

Accessibility to services and facilities

5. Flaxby is a small village without services and facilities that is set to the north of the A59 and to the west of the A1(M). Consequently, future residents of the dwelling/s would have to look further afield for their day-to-day requirements. This issue was discussed at the Hearing. Some requirements could be met at other villages including Goldsborough while other services are available within Knaresborough, Harrogate and Boroughbridge.

6. The evidence does indicate that there is a bus stop within the village from where services operate in one direction towards Boroughbridge and in the other towards Knaresborough with calls at intermediate destinations on both routes.
7. However, these services are not regular with six services per day in either direction. The irregular services would not therefore be especially convenient. I was also made aware of a bus service serving primary school children linking the village with the primary school in Goldsborough and the evidence details a bus which serves the Harrogate high schools.
8. However, given the irregularity of the general bus services, residents at the appeal site would find it far more convenient to access day to day services and facilities via private vehicle and for a large number of trips, including those for work are likely to be reliant on such a requirement, despite my attention being drawn to a small number of jobs being available at Chippindales.
9. My attention has been drawn to the large amount of pending development at Flaxby Green Park, including a rail halt. However, the most convenient route to access that site without a vehicle would be along a secluded and unlit right of way and would also involve crossing the busy A59.
10. Accessing that site on foot would not be an appealing prospect, particularly in the winter and in times of darkness and inclement weather. I appreciate that electric vehicle infrastructure would be included within the development, but that would not provide any compulsion for a future resident/s to use such a vehicle.
11. As a result of the above matters, the proposal therefore conflicts with policies GS2 and GS3 of the Harrogate Local Plan (2020) (HLP) which promote a settlement hierarchy which broadly directs new housing towards settlements that are best placed to support it and not within the wider countryside which Flaxby is considered as under the plan.

Character and appearance

12. The appeal site forms the eastern part of a small arable field on the western side of York Road on the edge of Flaxby. The site is bounded by a hedgerow fronting York Road. There are houses opposite and the site is separated from housing to the north by an access track.
13. Whilst noting the linear pattern of the village, the field makes a significant positive contribution to the setting and therefore character and appearance of Flaxby. It is very important as it assists in providing the village with visual and functional separation from the rather commercial and large Chippindale and Morrisons buildings further to the southwest. It assists in enabling Flaxby to be read as a rural village set amongst farmland, despite the close presence of the aforementioned units and the heavily trafficked A59.
14. The site is included within Area 69 (East Knaresborough Arable Farmland) of the Landscape Character Assessment¹. In relation to sensitivities and pressures it sets out that the settings of the villages are important to the diversity of the landscape and are sensitive to change resulting from domestication of village fields or enlargement of fields.

¹ Harrogate District Landscape Character Assessment February 2004.

15. The Council considered that this site could form a village field at the Hearing, and whilst I noted the appellants point that there had been no specific appraisal of this site, the development of dwellings at this site, even below the maximum proposed of five, would work very much against the landscape objectives for the area even were the hedge around the site to be retained.
16. The proposal would therefore result in clear and significant harm to the character and appearance of the area. It would subsequently conflict with policies HP3 and NE4 of the HLP which amongst other things require that development should respect the spatial qualities of the local area and which seek to resist development which would harm the setting of a settlement.

Self-build and custom housebuilding

17. The Council has a duty under the Self Build and Custom Housing Act 2015 (as amended by the Housing and Planning Act) to keep a register of persons who are interested in acquiring a self-build or custom-build (CSB) plot, and to also grant enough suitable planning permissions for such serviced plots to meet this demand.
18. This matter was the subject of extensive submissions by both the Council and the appellant both in written evidence prior to the Hearing and on the day of the Hearing itself.
19. However, in any event, the Council accept that there is a shortfall in the provision of CSB plots within the district. At the Hearing, they identified the shortfall as 89. The appellant felt that the shortfall was far greater, at somewhere between 287 and 337 having undertaken a detailed analysis of previous permissions previously identified as CSB by the Council.
20. On the basis of the evidence and discussion at the Hearing, I consider it likely that a number of those previous permissions could not be with confidence identified as CSB. Whilst it would be very difficult to pin down an exact figure, the shortfall could well be towards the appellants, rather than the Council's figures. I also acknowledge the demand identified within the borough and local area through secondary data sources drawn to my attention by the appellant.
21. The potential contribution in CBS (which would be secured through a Unilateral Undertaking) is therefore a benefit of significance carrying substantial weight in favour of the appeal proposal.
22. My conclusion with regard to this matter is the same as a previous inspector when considering a previous appeal at the site for up to 9 eco custom self-build homes².

Agricultural land

23. The appeal site is classified as best and most versatile agricultural land (BMV) - Grade 2 land (Very Good). It was heard at the Hearing that the land is on general arable land rotation and once accommodated the village strawberry field. Policy NE8 of the Local Plan states that best and most versatile agricultural land, including Grade 2, will be protected from development not associated with agriculture or forestry except where it can be demonstrated to be necessary.

² APP/E2734/W/22/3293545.

24. Whilst I take note of the positive contribution as a result of CSB provision above, the submitted evidence nor anything at the Hearing clearly demonstrates that the development of this particular site for the proposal would be necessary.
25. Whilst in the context of food and other resource production the loss would be small given the size of the site, the supporting text makes it clear that the Policy is there to protect BMV, acknowledging that this land is often in close proximity to settlements where development pressure is greatest. There is therefore conflict with Policy NE8 of the HLP.

Planning policy context

26. I consider the most important policies are GS2, GS3, NE4, NE8, HS3 and HP3 of the HLP. The Policies have been referenced above in the report, except for Policy HS3.
27. This Policy relates to self and custom build housing. I accept that the Council appears to place a large degree of stock in meeting its CSB requirement on strategic sites of 500 dwellings or more where a CSB requirement of 5% will be required.
28. Whilst I acknowledge the appellant's concerns over whether the demand for CSB can be delivered through this measure, the Policy represents a route to alleviate the CSB shortfall and nothing within the evidence convinces me that it would be as ineffective as the appellant claims. Furthermore, the policy does not rule out the provision of CSB on suitable small sites and single plots on infill sites and sites on the edges of settlements.
29. I therefore do not consider Policy HS3, nor Policy GS3 including its development limit approach to be out of date. There is nothing to indicate that the other most important policies are out of date, and these relate to core planning principles relating to location of development, the character and appearance of an area and the protection of landscape character.

Other Matters

30. The pursual of Passivhaus principles and other sustainable design credentials can be afforded some positive weight but this would be very limited by reason of the very small scale of the scheme.
31. The appellant has drawn many appeal decisions to my attention. The Kingsdown and Ledbury appeals³ relate to the provision of CSB dwellings outside of a settlement boundary, although the characteristics of those sites appear to differ significantly from that before me. I therefore afford these matters limited weight.
32. Within the Gamlingay appeal⁴ the provision of CSB appears to have weighed heavily in favour of the development and within the Colney Heath, Whittington, Caxton Steventon and Pannal appeals⁵, substantial weight was afforded to the provision of CSB. In a similar manner to those cases I have afforded

³ APP/X2220/W17/3176895 & APP/P1615/W/18/3213122.

⁴ APP/W0530/W/19/3230103.

⁵ APP/B1930/W/20/3265925, APP/H1840/W/20/3255350, APP/W0530/W/21/3282234, APP/V3120/W/20/3265465 & APP/E2734/W/20/3259171.

substantial weight in favour of the appeal proposal as a result of its CSB offering and the CSB situation within the borough.

33. The Woodville, Melton and Corsham appeals⁶ raised issues of doubt as to whether other permissions would indeed be CSB. I have reached a similar conclusion above in that some previous permissions may not be with confidence identified as CSB.
34. The situation within this appeal by the presence of Policy HS3 of the HLP differs from that within the cited Droitwich appeal⁷ where the development plan appeared to lack reference to CSB and in the Kidderminster appeal⁸ where there were no relevant development plan policies relating to CSB. I afford these matters limited weight.
35. I acknowledge the position within the Marton Le Moor appeal⁹ where it notes that a five-year housing land supply would not form a ceiling. The Chorley appeal¹⁰ suggests that secondary data sources can be taken into consideration, and I have done so within this appeal.

Planning Balance and Conclusion

36. The proposal would not encompass a sustainable pattern of growth given that residents would be likely to be reliant on less sustainable modes of transport and this would be against the development strategy for the area. The proposal would result in significant harm to the character and appearance of the area. The proposal would result in the loss of best and most versatile agricultural land which is not demonstrated to be necessary.
37. Given the position within the borough in relation to CSB, I am able to afford substantial weight in favour of the proposal with regard to such provision which could be up to 5 dwellings. However, this matter, nor the design credentials of the dwellings would outweigh the harm identified.
38. I consider that the basket of most important policies is not out of date in this case. Moreover, even if I were to agree with the appellant that the basket of most important policies were out of date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development would not apply.
39. There is nothing, including the Framework¹¹ to indicate that the decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR

⁶ APP/G2435/W/18/3214451, APP/X3540/W/21/3276418 & APP/Y3940/W/19/3243873.

⁷ APP/H1840/W/19/3241879.

⁸ APP/R1845/W/21/3284761.

⁹ APP/E2734/W/18/3201820.

¹⁰ APP/D2320/W/20/3247136.

¹¹ National Planning Policy Framework 2021.

Documents submitted at Hearing

-Plans and Land Registry Documents relating to other sites by Appellant.

Documents submitted after Hearing

-Further comments by Council and Appellant regarding dating of development plan policies.