



Appeal Decision

Hearing held on 6 September 2023

Site visit made on 6 September 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2023

Appeal Ref: APP/G2713/W/23/3315276

Land South of Spring Garth, The Nookin, Husthwaite, North Yorkshire

- 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 Dan Warrington of W&W Estates against the decision of North Yorkshire Council.
 - The application Ref 21/01579/FUL, dated 17 June 2021, was refused by notice dated 5 September 2022.
 - The development proposed is development of 8 dwellings, access road and associated infrastructure. (Amended Plans received to show the retention of Cote House, amended access and design amendments).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following local government re-organisation, Hambleton District Council (HDC) now forms part of North Yorkshire Council (NYC). Whilst the planning application was originally determined by HDC, I have used NYC in the above banner, as it is now the local planning authority.
3. The Revised National Planning Policy Framework (the Framework) was published on 5 September 2023, after the appeal was lodged. As agreed verbally at the event with the parties, the changes to the Framework are not material to the appeal. Consequently, whilst I have had regard to the Framework in reaching my decision, I will not prejudice any party by taking this approach.

Main Issues

4. The main issues of this appeal are:
 - the effect of the proposed development character and appearance of the appeal site and surrounding area, including Husthwaite Conservation Area (the HCA) and nearby listed buildings; and,
 - whether a suitable mix of housing is proposed, with regard to development plan policies.

Reasons

Character and appearance

5. The site comprises an irregular plot of land, measuring approximately 0.489Ha,

sited to the east of The Nookin, where access to the site is taken. The proposed access would utilise the existing access at Cote House, subject to the required improvements. It is common ground between the parties that Cote House is a non-designated heritage asset (NDHA). Cote House itself is not included within the site boundary, although it is identified as being in the same ownership. Nonetheless, Cote House is a material consideration that will be examined later in this decision.

6. Whilst NYC has been formed, the Hambleton Local Plan, Adopted February 2022 (LP) remains the adopted plan for this appeal. LP Policy S3 lists Husthwaite as a Service Village within the Easingwold area. It is stated that to help maintain the sustainability of rural communities and to address affordable housing and other housing requirements, limited development will be located in service villages, where there are a good range of services and facilities to support the level of growth proposed. Additionally, windfall housing development that comes forward during the plan period will be an important additional supply of homes and will be supported as set out in LP Policy HG5.
7. LP Policy HG5 requires all proposals, individually or cumulatively to not result in the loss of open space that is important to the historic form and layout of the village and have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village, amongst other things. Furthermore, LP Policy E5 requires any harm to, or loss of, the significance of a designated heritage asset will require clear and convincing justification. In line with the Framework less than substantial harm to the significance of a designated heritage asset will only be supported where the harm is outweighed by the public benefits of the proposal.
8. The scheme would introduce built development on land, which is currently undeveloped, albeit part of the scheme within the HCA would involve the demolition of buildings associated with Cote House. Section 72 of Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) does not extend to the setting of a Conservation Area, but I have had regard to paragraph 195 of the Framework, which requires an assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
9. I viewed the site, including the paddock area from the public right of way (PROW), which is at a higher level to the site due to the changes in topography towards the south of the site. I have no doubt that features within the HCA contribute to its significance. However, I consider that the paddock and the other plots of land adjoining/adjacent to the site positively contribute to the setting of the HCA and its significance. Whilst internal field boundaries may have been removed during the last century, the paddock and surrounding fields still provide an understanding of the historic agricultural origins in the formation of Husthwaite as a rural settlement.
10. The appellant is of the view that the number of dwellings proposed would only be small and in turn would only develop a portion of the open fields. Additionally, I note reference to the open area, which the site forms part, has development on 3no. sides, with other parts of these fields having agricultural buildings. Whilst there may be development on 3no. sides of these open fields this does not significantly detract from the experience when walking along the

PROW, particularly from The Nookin to Kays bank. On this section of the PROW, views over the site and the HCA can clearly be seen. The mature trees dividing the open fields effectively screen majority of the residential properties outside the HCA. Views of the tower to the Church of St Nicholas, which is a Grade II* listed building is also visible from this location. Thus, whilst this area of countryside may not be as expansive as the area to the north of the HCA, the fact remains that the loss of the paddock would be harmful to the setting of the HCA, through the urbanising effect of the proposed development, which would be permanent. Consequently, I am unable to share all of the main findings of the appellant's detailed Heritage Appeal Statement¹.

11. I have read the comments from Historic England in relation to the demolition of ancillary buildings at Cote House. However, it was apparent at the site visit that these structures display no architectural merit, or positively contribute to the HCA. I am also aware of a recently determined appeal² in proximity of the site. This scheme is a material consideration, although similar to the appeal scheme there are notable differences, particularly in the number of dwellings proposed, the inclusion of a NDHA in the appeal scheme and the relationship with the HCA.
12. I have a statutory duty under Section 66 (1) of the Act, which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. Although, a number of listed buildings are located within the village, I find through the discussions that took place at the event and the evidence submitted, the Church of St Nicholas and Black Bull Cottage, which is Grade II listed are the most relevant. The setting of these buildings is primarily from the built environment along Low Street/High Street, The Nookin and the village green. These listed buildings are separated from the appeal site existing development and mature vegetation. Consequently, I am satisfied that the proposed development would not harm any significance derived from the setting of these listed buildings.
13. In accordance with paragraphs 199 and 202 of the Framework it is for the decision maker having identified harm to the designated heritage asset, to consider the magnitude of that harm. In this case I conclude this should be considered as less than substantial when considered in the context of the asset. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure. Although, I consider the harm to the setting of the HCA would be less than substantial, it is nonetheless a level of harm to which significant weight should be attached.
14. The appellant considers that the proposed development would deliver market housing, which is currently limited; provide 2no. affordable units and a commuted sum in lieu of 0.4 of an affordable unit; support local services and facilities in Hushwaite, there would also be social and economic benefits through the construction phase and the future occupation of the properties. The appellant has referenced previously developed land, but this is only in part, as majority of the site is located on a green field.
15. Furthermore, I note the refurbishment of Cote House as a NDHA is included, and to reinforce this commitment a legal agreement has been prepared to

¹ Heritage Appeal Statement by Pegasus Group, dated January 2023

² APP/G2713/W/3316000

secure the necessary works. There is no doubt that Cote requires refurbishment, as highlighted in the structural reports. However, Cote House benefits from a planning permission³ in its own right, and whilst an estimated figure for the required works has been provided, there is little detail, surrounding the financial breakdown of the costs within the scope of works. Contrary to the view of the Council's Conservation Officer, it has not been satisfactorily demonstrated that Cote House requires this development in order for its refurbishment to be undertaken. While the proposed development may result in the benefits listed, and thus ultimately be public benefits, those benefits individually or combined do not outweigh the harm I have identified to the setting of the HCA as a heritage asset.

16. For the reasons given above, I conclude that the proposed development would harm the character of the village and fail to preserve the setting of the HCA. In the absence of sufficient public benefits to outweigh these harms I conclude the works and scheme would be contrary to the design, heritage, character and appearance aims of LP Policies E5, HG5 particularly parts (d) and (e), and the requirements of the Framework.

Housing mix

17. The proposed development would provide 6no. open market residential units, including a refurbished Cote House, and 2no. affordable units. The open market units would comprise 3no. three bedroom houses, 2no. four bedroom houses and 1no. two bedroom bungalow. The 2no. affordable units would comprise 1no. two bedroom house and 1no. three bedroom house. The appellant is of the view that this residential mix has been informed by the Strategic Housing Market Assessment (SHMA) and Housing and Economic Development Needs Assessment (HEDA). There is also evidence that the commercial experience of the appellant and engagement with Council Housing Officers (CHOs) contributed to the proposed mix.
18. Overall, the development proposal will deliver a size and tenure of housing that complies with the specific policy tests outlined LP Policy HG2(f) and HG5(b). The proposed size of each of the homes will ensure that the development will respond to market needs, and in doing so the proposals will meet the achievability test of Annex 2 of the Framework in respect of ensuring that the development is truly deliverable. At the event it was indicated verbally by the Council during the discussions that this element of the scheme would have been preferred if 1no. bedroom properties were included within the scheme. However, I note that the appellant was given no encouragement for such provision during discussion with CHOs.
19. For the reasons given above, I conclude that the proposed development would not have an unacceptable effect on the housing mix in the area. Consequently, it complies with the strategic development/housing aims of LP Policies HG2(f), HG5(b), the Housing Supplementary Planning Document 2022, the SHMA and the requirements of the Framework.

Other Matters

20. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, particularly in respect of advice given and

³ 22/02806/FUL

changes in personnel, but this does not affect the planning merits of the case. I have considered this appeal on its own merits and concluded that the proposed development would be unacceptable for the reasons set out above.

21. A significant number of local residents have expressed a wide range of concerns including, but not limited to the following: Highway/pedestrian safety; flooding/drainage; ecology; living conditions; pollution; climate change/sustainability, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Planning Balance and Conclusion

22. There is a lack of harm in respect of housing mix and the absence of other harm arising from the proposed development. Whilst the Council has in excess of a 9-year supply of housing land, it remains an objective of the Framework to significantly boost the supply of homes, and the proposed development would contribute to a wider choice and supply in the housing market, in an accessible village that has a range of services and facilities. The scheme would also provide 2no. affordable units, along with a financial contribution towards affordable housing, and economic and social benefits through the construction phase and subsequent occupation of the scheme, amongst other things. There is also potential for the refurbishment of Cote House to take place as part of the proposed development.
23. Nonetheless, these factors do not outweigh my assessment on character and appearance and the setting of the HCA, which would result in significant harm. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework.
24. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Butler BA Hons MSc MRTPI (Agent)	PB Planning
Mr D Warrington BSc (Appellant)	W&W Estates Ltd
Ms L Garcia BA Hons MCIfA	Pegasus Group

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Jones MA MRTPI (Development Manager)	North Yorkshire Council
Mr M Pearson MPlan DipED MRTPI (Planner)	North Yorkshire Council

INTERESTED PARTIES:

Mrs S Aspinall BA Hons	Husthwaite Parish Council
Mr I Harper	Local resident
Mrs S Hunter	Local resident
Mr P Stickley BA Hons Arch	Local resident
Mr C Smith	Local resident
Mr S Barker	Local resident
Mrs C Staines	Local resident

DOCUMENTS

- Signed/completed Statement of Common Ground
- Hard copies of SHMA, HEDA and the Housing SPG
- Listed buildings document, including plan and descriptions
- The history of Cote House and the attached land