



Appeal Decision

Site visit made on 20 November 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/G2713/W/23/3330399

Land adjacent to St Peters Close, Boroughbridge Road, Brafferton, York, North Yorkshire YO61 2QB

- 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 Philip Faulkner against the decision of Hambleton District Council.
 - The application Ref 22/02294/OUT, dated 21 September 2022, was refused by notice dated 29 March 2023.
 - The development proposed is erection of 4no. dwellinghouses with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form, with all matters other than access reserved for future consideration. As such, the submitted plans can only be taken as being indicative at this stage, other than where they relate to access.
3. Since the planning application was determined, Hambleton District Council has merged with several councils to form North Yorkshire Council. However, the development plan policies against which the planning application was determined remain in place until such time as they are revoked or replaced. I have determined the appeal on this basis.
4. In reaching this decision, I have had regard to the revised version of the National Planning Policy Framework ('the Framework'), that was published on 20 December 2023 and I have sought the parties' comments upon it. Accordingly, no party has been prejudiced by me doing so.

Main Issues

5. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development, having regard to the spatial strategy of the development plan,
 - the effect of the proposal upon the character and appearance of the area and the countryside;
 - whether future occupiers would be able to access services and facilities by means of sustainable travel, and;
 - the effect of the proposal upon protected trees.

Reasons

Location of housing development

6. The appeal site currently forms part of an agricultural field. I understand that it formerly contained pheasant sheds, but there was no evidence of these at the time of my visit, and the site was being grazed by sheep. To the north of the appeal site is the remainder of the larger agricultural field, with further agricultural land beyond, as well as to the west.
7. To the south of the appeal site is located 'The Milking Parlour' which is a small dwelling set within a commensurately sized plot. On the opposite side of the road is 'The Old Parsonage', a dwelling which is detached from the settlement of Brafferton, which is close by to the south.
8. Policy S3 of the Hambleton Local Plan ('HLP') identifies a development strategy based upon a settlement hierarchy. It sets out that limited housing development will be located in service villages and secondary villages where that are a good range of services and facilities to support the level of growth proposed. The policy identifies Brafferton as a 'service village'.
9. HLP Policy S5 defines countryside as land outside the existing built form of a settlement which is identified within HLP Policy S3. The appeal site is located within the countryside. HLP Policy HG5 makes provision for windfall housing in the countryside but adjacent to the built form of service villages. For the purposes of Policy HG5, the definition of built form is derived from Policy S5.
10. The definition of built form within Policy S5 is stated as being 'the closely grouped and visually well-related buildings of the main part of the settlement and the land closely associated with them'. It also sets out that any individual buildings which are clearly detached from the main settlement are excluded from this definition, as are gardens, paddocks and other undeveloped land.
11. To the south of The Milking Parlour is a grassed enclosure, beyond which is further residential development at St Peter's Close. To the south of The Old Parsonage is a field.
12. At present, both The Milking Parlour and The Old Parsonage are clearly detached from the settlement, and in being so are excluded from the definition of the built-up area. The Milking Parlour is a standalone rural conversion, and The Parsonage is a detached property set in its own grounds. The appeal site is not, therefore, within Policy HG5's definition of 'adjacent to built form'. Given such, the scheme fails at the first qualification criterion of the policy, and therefore does not fall to be assessed against the more detailed requirements of the policy in this respect.
13. I therefore conclude on this issue that the appeal site not an appropriate location for the proposed development having regard to the spatial strategy of the development plan. The proposal would therefore be contrary to HLP Policies S3, S5 and HG5 in this respect.

Character and appearance

14. At present the appeal site forms part of the rural setting of the village. However, despite the relatively flat topography, when approached from the north, the extent of the village is largely contained beyond mature hedgerows and trees to the south of the site. The casual observer could be led to believe that there is no village there at all. Although The Milking Parlour is located adjacent to this large field, at the south-eastern corner at the point closest to

the village, it reads as a standalone rural building and so does not extend the built envelope of the settlement. Rather, there is a clear and sudden transition from the countryside to the northern edge of the village. The appeal site appears undeveloped and open, and therefore reads as an integral part of a pleasant rural scene.

15. The development would extend the built form of the village northwards, into this more open and overtly rural area. Although the proposal would be located towards the eastern extent of the larger field and there is a difference in height between the road and the appeal site, it would nevertheless be noticeable when approached from the north along Boroughbridge Road. Although the existing hedgerow and trees along Boroughbridge Road would offer some filtering of views, this would be intermittent and would vary over the course of the year.
16. This extension of development northwards along the road would lead to the northern edge of the settlement being less well-defined and would erode its contained character. The provision of four dwellings with associated domestic enclosures, vehicles, and other typical paraphernalia would invariably impinge on the undeveloped, open character of the appeal site, and so it is likely that the site and its immediate rural surroundings would be harmfully urbanised.
17. Furthermore, Public Right of Way ('PROW') no.10.17/12/1 partially crosses the appeal site as it runs in a south-westerly direction across the large field, towards the northern edge of the village. The proposal would be a prominent urban feature experienced at close proximity by any users of this path, in contrast to the current, attractively rural setting of this particular route.
18. The provided landscape and visual appraisal ('LVA') finds that the proposal would result in both landscape and visual impacts between the levels of 'slight/negligible' and 'slight/moderate' levels. With regard to this, I consider that the views from the PROW would be more sensitive visual receptors than the assessment concludes, given the proximity of the views that would be experienced. Overall, I consider that the LVIA has underappreciated the extent of harm that would arise in both landscape and visual terms.
19. Furthermore, there are some discrepancies within the LVA in relation to the size of the appeal site which is indicated on some figures as being smaller than shown on the submitted location plan. These inconsistencies reduce the weight I am able to attach to the findings of this document.
20. Accordingly, I conclude on this issue that the proposal would harm the character and appearance of the area. It would therefore be contrary to the landscape and visual objectives of HLP Policies HG5, S1 and S5, which require new development to not harm the character and appearance of the land on which it is located or the surrounding area, and respect and strengthen the distinctive character of the landscape and the form and setting of settlements.

Access to services and facilities

21. There is a footway on the eastern side of Boroughbridge Road between the main part of the settlement and The Old Parsonage. There is no footway on the western side of the road. Instead, one must cross over to the east side and then cross back and take a footpath through St Peter's Close.
22. The PROW within the field within which the appeal site is located provides a connection to the village. However, this is an unmade and unlit rural recreational path. It would not be a route suitable for day-to-day journeys to and from village services.

23. The submitted plans show that a small area of hardstanding would be provided on the western side of Boroughbridge Road, close to the access of The Milking Parlour. This would serve as a crossing point for the road, in order to allow access to the footway opposite. The indicative layout demonstrates that a footpath connection to this crossing point could be achieved within the appeal site.
24. Neither of the main parties suggest that the proposed arrangement would be inherently unsafe, and as it would serve only four dwellings, I would expect the level of pedestrian traffic using this route to be relatively low. In addition, the distance to village services following this route would not be significant, and other than the need to cross Boroughbridge Road twice, there are no other obvious barriers to its use. Overall, I consider that future occupiers of the development would be provided with suitable means to access services and facilities within the village by sustainable means of travel.
25. An alternative route, as advanced by the Council, would involve the use of the field access from St Peters Close to connect the proposal to the wider village. Such a route would potentially be more convenient and attractive to pedestrians in comparison to the arrangement proposed by the appellant, as it would avoid the need to cross Boroughbridge Road twice. However, it would involve the use of third-party land and the evidence indicates that no agreement for its use exists. I do not, therefore, consider it to be a realistic alternative to the arrangement proposed.
26. Although HLP Policy E1 requires new developments to maximise opportunities for pedestrian links within the site and with the surrounding area, it does not go so far as to require all avenues, including those outside of the appellant's control, to be exhausted.
27. My attention has not been drawn to any bridleways or cycle paths within the village. On this basis, it would appear that most journeys by bicycle would be undertaken on the local road network. Although only a snapshot in time, I saw on my site visit that Boroughbridge Road is a popular route with drivers. However, given the 30 miles-per-hour speed limit and relatively short distances involved, I consider it likely that accessing the services in the village by means of bicycle would be a feasible option.
28. I conclude that the proposal would provide adequate access to services and facilities by means of sustainable travel. It would therefore be in accordance with HLP Policies E1 and IC2 which, together, and amongst other matters state that new development should be accessible for all users by maximising opportunities for pedestrian, wheelchair and cycle links with the surrounding area and local facilities and minimises the need to travel.

Effect of the proposal upon protected trees

29. The eastern boundary of the site is formed by a hedgerow within which are located a number of mature trees spaced at regular intervals. These trees are subject to a Tree Preservation Order¹.
30. The evidence indicates that although the proposed access would potentially be partially located within the root protection areas ('RPA') of two of these trees, their proximity to the road means that it is likely that the RPAs are offset. This suggests that an access could be constructed without compromising these trees.

¹ 22/00002/TPO2

31. This evidence is not provided within a separate arboricultural report, nor is it clear whether it was compiled by an appropriately qualified individual. Nevertheless, the assumptions within the evidence are indicated as being in accordance BS 5837, and there is no substantive evidence before me which would lead me to conclude that the appellant's findings are not reasonable.
32. Accordingly, I consider that the proposal would not lead to harm to the protected trees. It would therefore be in accordance with HLP Policy E7 which states that proposals will be supported where they would conserve any natural landscape features, including trees and hedges of value.

Other Considerations

33. There is an extant planning permission² for residential development on the grassed enclosure to the south of The Milking Parlour. Additionally, planning permission³ exists for a development of 28 dwellings within the field to the south of The Old Parsonage, which I saw is currently under construction.
34. Given that one of these permissions already appears to have commenced, and the other relates to small development with no obvious barriers to delivery, there is a greater than theoretical possibility that these permissions would be fully implemented.
35. Accordingly, I accept that the status of the appeal site in terms of whether it is adjacent to the built-up area could change in the future. This tempers the weight I attribute to the conflict that would arise with Policy HG5 insofar as it relates to the spatial strategy of the development plan. That being said, on the evidence before me, these other schemes would not significantly diminish the degree of harm that would arise as a result of the appeal proposal to the character and appearance of the area. Given such, they amount to a consideration of limited weight in my assessment.

Other Matters

Public Right of Way

36. The PROW diagonally crosses the field of which the appeal site forms part. It is not disputed between the parties that it partially crosses the appeal site.
37. As the layout of the proposal is a matter reserved for future consideration, the provided layout plan is only indicative. Accordingly, it is possible that the PROW could be accommodated within any final layout without the need for diversion. The Council would retain control of this matter at the reserved matters stage.

Housing mix

38. The Council is also concerned about the housing mix of the scheme. However, given that the detailed design of the dwellings is a reserved matter, it could have been addressed at that stage, had I been minded to allow the appeal.

Biodiversity Net Gain

39. A Biodiversity Net Gain ('BNG') report has been provided which concludes that the proposal would result in a 21.47% net gain of biodiversity units for habitats, and an 80.78% gain of hedgerow units. The report has used the DEFRA 3.1 metric, which has since been superseded by DEFRA 4.0 metric. As

² 22/01858/FUL

³ 16/01142/OUT & 21/00966/REM

the DEFRA 3.1 metric was the most up-to-date metric when the report was compiled in September 2022, I consider its use to be reasonable.

40. However, the as the report is based upon an indicative landscape plan, with this matter being reserved for consideration, it is unclear whether the level of stated BNG would be achievable. Nevertheless, I am satisfied that the report indicates that BNG of some degree would be feasible, and this is a matter that weighs in favour of the proposal. However, given the uncertainty around the level of BNG that could ultimately be achieved, I afford this factor moderate weight in my considerations.

Planning Balance and Conclusion

41. I have found that the proposal would be acceptable in relation to whether future occupiers would have suitable access to local services and facilities by sustainable means of travel, and its effect on protected trees. However, it would harm the character and appearance of the area and would not be situated in a location suitable for housing development. The proposal would therefore conflict with the development plan when read as a whole.
42. The provision of four dwellings would make a modest contribution towards boosting the supply of housing. As Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of homes, the contribution that the proposal would make to the supply of housing is a factor to which I afford moderate weight.
43. The proposal would lead to time-limited economic benefits during the construction period, and thereafter in the longer term through support to services and facilities in a rural area. The scale of the proposal means that these are modest benefits. As the development would have the potential to deliver a significant level of BNG, this is another factor that weighs in favour the scheme.
44. Section 38(6) of the Planning and Compulsory Purchase Act 2006 states that a decision must be taken in accordance with the development plan, unless material considerations indicate otherwise. The other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.
45. For the reasons given, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR