



Appeal Decision

Site visit made on 31 October 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

Appeal Ref: APP/C2708/W/23/3317659

Clay Hall, Broughton Road, Skipton BD23 3AA

- 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 Mandale Homes North Yorkshire against the decision of Craven District Council.
 - The application Ref 2021/23270/FUL, dated 3 September 2021, was refused by notice dated 25 October 2022.
 - The development proposed is erection of 26no. dwellings with associated landscaping and public open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the application form states that the proposal is for 26no. dwellings, the decision notice and the appeal form confirm that the description of development was changed to 30 dwellings. It is on this basis that I have determined the appeal.
3. The application was determined by Craven District Council. On 1 April 2023, Craven District became part of the new unitary authority of North Yorkshire Council, however, this does not affect the planning decision subject to this appeal.
4. A revised National Planning Policy Framework (the Framework) was published in December 2023. The main parties were consulted on the relevance of this to the appeal and no further comments were received.

Background and Main Issues

5. Although not a reason for refusal, the effect of the proposal on the Skipton Conservation Area (CA), which abuts the site, is potentially a determinative issue. Therefore, I have elevated this matter to a main issue, which the main parties have been given the opportunity to comment upon.
6. Therefore, the main issues are:
 - whether the proposal would result in harm in achieving the planned distribution of development in the area; and
 - the effect of the proposed development on the significance of the CA, as a designated heritage asset through development within its setting.

Reasons

Location

7. The site is an irregular shaped area of land located between the Leeds and Liverpool Canal and the A6069. The eastern end consists of an area of hardstanding adjacent to Clay Hall, part of which lies under the A629 flyover. The opposite end of the site is next to the Niffany Bridge which provides access to Niffany Farm. The site lies to the west of Skipton and is outside the existing built-up area of the town.
8. Policy SP4 of the Craven Local Plan 2012 to 2032, 2019, (LP) identifies a settlement hierarchy and sets out the spatial strategy and housing growth for the district. Skipton is identified as a Tier 1 Principal Town Service Centre. Land adjoining a Tier 1 settlements main built-up area, which is not allocated for development in the plan, is classified as open countryside.
9. However, as the proposed development abuts the main built-up area of Skipton, it has been assessed against LP Policy SP4 I, which I have no reason to disagree with. This policy supports the release of non-allocated sites for housing that adjoin the main built-up area subject to several criteria.
10. Criterion a) of Policy SP 4 I states that it must be demonstrated that the planned growth in the spatial strategy for the settlement will not be delivered during the plan period. Skipton has been identified as requiring 50% of the dwellings of the district during the plan period. The Authority Monitoring Report, April 2021 to March 2022 has identified that Skipton delivered 42.3% housing growth in 2019/2020 and 40.6% in 2020/2021. It is acknowledged by the appellant, however, that COVID-19 did lead to a significant drop in housebuilding over the whole area.
11. However, the Council's January 2022 Settlement Growth Monitoring report identified that Skipton had a housing growth of 206 dwellings against the planned growth, which increased to 220 in the report for January 2023. The appellants contend, however, that the required growth will not be achieved as 60% of sites within Skipton do not yet have planning permission. For a site to be deliverable it must be available now, in a suitable location for development and with a realistic prospect of the housing being delivered within five years. Whilst the appeal site would be deliverable in these terms, it is a non-allocated site in the open countryside. Moreover, there is no clear evidence that the planned growth in the spatial strategy will not be achieved as the housing numbers, which are monitored on a yearly basis are on an upwards trajectory, and a five-year housing land supply (5YHLS), stated as being 5.7 years, can be demonstrated across the district.
12. No evidence has been provided to suggest that criterion b), which refers to rural exception sites, is relevant. Furthermore, criterion c) of the policy requires that the development is justified by special environmental, economic and/or social circumstances. There is no dispute that there would be social benefits through the creation of housing, including on-site affordable housing and the provision on site of open space with an off-site contribution. Moreover, economic benefits would result from the proposal, during both the construction period and from residents accessing local services and facilities, and environmental benefits from proposed landscaping and habitat creation.

However, no evidence has been put forward that these factors provide special circumstances.

13. Housing delivery over the ten-year period to 2021/2022 was only slightly less than the target for Skipton despite limiting factors such as the effect of the COVID-19 epidemic. The latest evidence indicates that Skipton will provide more housing than planned. There is minimal substantive evidence before me to dispute the deliverability of the proportion of that assessment which is formed by allocated sites without permission. Thus, it has not been demonstrated that the planned growth for the settlement will not be delivered.
14. Therefore, to conclude, the proposal would result in moderate harm in achieving the planned distribution of development in the area. As a result, it would not accord with LP Policy SP4 I as set out above.

Conservation Area

15. The northern boundary of the development proposal lies adjacent to the CA. In this location it is the westernmost point of the CA which stretches from Niffany Farm and has a sinuous boundary that covers the Leeds and Liverpool Canal and the adjoining towpath. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, in this case the CA, great weight should be given to the asset's conservation.
16. The significance of the CA in this location, and in relation to this appeal, arises in part from it being an early example of canal technology, particularly with reference to 'sidelong' construction and its dry-stone retaining wall, built as a result of it passing along the side of a valley through Skipton. This feature exists adjacent to the site. The canal also has an aesthetic value, as its winding course reveals changing views of the surrounding urban and rural landscape. It is reputed to have been built in the 1770s in order to move coal and lime and has historic value for the role it played in Skipton's economy in the early 19th century.
17. The towpath, which is part of the CA, is located above the site, separated from it by a stone wall with trees and hedging. Views along the towpath and from the adjacent road are of a rural landscape surrounding the canal, with fields rising up from the canal side on the opposite bank. Trees follow the line of the canal and are important to the overall verdant setting of the site. The appeal site forms part of the CA's setting. Its open and undeveloped appearance makes a spacious and rural contribution to its significance.
18. Although the layout has changed since a previous application was dismissed on appeal¹, the proposed housing, as well as the access road, would result in an intensive form of development in this rural setting. The development, despite the flyover further along the road, would intrude into the setting of the CA in this location. It would introduce a significant number of houses within the open countryside which appears quite separate from the built-up area of Skipton further east. This would be incongruous within the setting of the CA. This would harm its rural setting by housing intruding into views both from the towpath and the canal, and when viewed from the road. This would therefore harm the significance of the CA through development within its setting.

¹ APP/C2708/W/21/3279976

19. In the terms of the Framework, this harm would be less than substantial in degree, which is not disputed by the parties. Paragraph 208 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
20. The proposal would provide 20 market dwellings which would provide moderate public benefits. However, as the Council can demonstrate a 5YHLS, this consideration attracts limited weight.
21. The site would also provide ten affordable dwellings, including two First Homes. A signed planning obligation in the form of a Unilateral Undertaking (UU) has been signed to provide this. This is necessary to ensure that the affordable housing required by policy would be delivered at the site and it would result in the appropriate size and tenure of housing required in Skipton. The provision of affordable housing would provide a significant benefit.
22. The UU also includes a contribution of £96,354 towards education for the provision of or improvements to primary education facilities. This amount is commensurate with the numbers of houses proposed and the likely requirement for increased education provision and as such directly relates to the development, is fair and reasonable, and is necessary to make this aspect of the development acceptable in planning terms. This would, however, be a neutral matter as without the increased numbers of pupils, this would not be required.
23. Furthermore, the UU also includes £100,685 for a public open space contribution for the enhancement and maintenance of equipped play, youth and adult provision within Skipton. Whilst this would provide moderate benefits to Skipton as a whole, this is directly related to the increase in numbers of people resulting from the development who would be accessing such facilities. Therefore, it is also necessary and related in scale and kind to the development.
24. The appellant has highlighted that the site could be built-out and delivered quickly, thereby supporting the provision of housing within Skipton. To achieve this, they have suggested a condition with a reduced timeframe for implementation. Conditions should, however, only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this case, the use of such a condition would not pass the test of necessity based on the 5YHLS in the area and that Skipton is projected to provide additional housing above its planned figures.
25. The proposed development would provide a windfall site. As such this is supported by the Framework which gives great weight to the benefits of using suitable sites within existing settlements for housing. However, although this site adjoins the settlement, it is in the open countryside. Furthermore, it is not suitable, based on its conflict with other policies, as set out above.
26. Habitat creation, which would deliver biodiversity enhancement, would provide some moderate benefits. The proposal would, in addition, result in short-term economic benefits during the construction of the development and longer-term benefits from the contribution that the occupiers of the housing would provide to the local economy. This provides moderate benefits to the scheme.

However, the sum of the public benefits is insufficient to outweigh the great weight that even less than substantial harm to the significance of a designated heritage asset carries.

27. The conclusions of the previous Inspector in relation to the CA have been provided. I understand that the layout and design of the scheme has been amended to address the findings of that appeal in terms of appearance, and that the setting of the CA was not a reason for refusal in this case. However, this does not affect my findings on the appeal that is before me.
28. Therefore, to conclude, the proposal would harm the significance of the CA, a designated heritage asset, as a result of development within its setting.
29. It would not accord with LP Policy ENV2 b) which requires that those elements which contribute to the significance of a designated heritage asset are conserved, and to chapter 16 of the Framework which relates to conserving and enhancing the historic environment.

Other Matters

30. I have had regard to other matters raised, including concerns about the proposal's effect on highway safety and flooding. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.
31. Furthermore, there is no dispute between the parties that the proposal would affect privacy or amenity. In addition, any design and construction benefits should be expected from new development and is a neutral matter.

Planning Balance

32. The considerable benefits of the scheme are identified above. However, I have found that the proposal would result in moderate harm in achieving the planned distribution of development in the area. Furthermore, I have found that the proposal would cause harm to the significance of the CA.
33. The Framework sets out that great weight should be given to the conservation of designated heritage assets, irrespective of whether the level of harm to significance, as in this case, is less than substantial. This harm is not outweighed by the benefits of the proposal.

Conclusion

34. The proposal would conflict with the development plan when taken as a whole and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm and associated development plan conflict.
35. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR