

Appeal Decision

Site visit made on 12 September 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/U2750/W/24/3348110

The Paddock, Hull Road, Hemingbrough, Selby, North Yorkshire YO8 6QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Finney against the decision of North Yorkshire Council.
 - The application Ref is ZG2024/0160/OUT.
 - The development proposed is described as "self build and custom residential development".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form but removed the unnecessary narrative elements.
3. The application was made in outline with all matters reserved. Illustrative plans were submitted, and I have treated these as such, but for their description of the access point to the site from the highway.
4. The appeal application was made to and determined by North Yorkshire Council, which was formed in 2023 and is now the local planning authority for the former Selby District Council area. The Selby District Core Strategy Local Plan, adoption version 2013 (the Local Plan) remains in force for this area.

Main Issues

5. The main issues are whether or not the site is a suitable location for the development proposed, and the effect of the proposal on the character of the area.

Reasons

Location

6. The Local Plan includes settlement boundaries, and defines land outside them, which includes the appeal site, as countryside. The Council and the appellant agree, as do I, that the appeal site lies outside the settlement limits, in defined countryside. Policy SP2 of the Local plan sets strict limits on the types of development acceptable in the countryside. The appeal proposal is not one of those types of development. The proposal does therefore conflict with the development plan in terms of its location in the countryside.
7. Against that clear development plan conflict, the appellant suggests that owing to the presence of other development close to the site, and the location of the site close to the boundary, this conflict is limited in its effect.
8. Whilst I acknowledge that the settlement boundary of Hemingbrough is very tightly drawn, the site does lie outside of it. I also note the presence of other development nearby, including some which is also outside of the settlement boundary, and some which is both outside of the settlement boundary and appears relatively recent. However, on the basis of the evidence of both sides and my observations on site, all of that other development has a very different link, physically and visually to Hemingbrough than the appeal site.
9. The housing in the apex of the School Road and A63 junction, whilst some distance along School Road from the more obvious core of Hemingbrough does, by virtue of being on the same side of the A63 as the rest of the village, feel more connected to it. The housing further to the east, further along the A63 on its southern side looks and feels separate from the village. The farm and associated buildings further east along the A63 and on the same side as the appeal site has a distinctly more rural and separated character than other housing and the appeal site. As a result, none of the existing built form leading out of (or in to) the village highlighted by the appellant alters my conclusions on the suitability of the location for the development proposed, nor does it outweigh the fundamental development plan conflict I have found.
10. The appeal site is also relatively distant from the facilities and services within Hemingbrough, and separated from them by the A63, a busy route with no formal crossings near to the site.
11. Taking all of the above into account, I therefore find that the appeal site is not a suitable location for the development proposed. The proposal does therefore conflict with Policy SP2 of the Local Plan, which sets the spatial development strategy for the area and seeks to strictly control development in the countryside.

Character

12. Hemingbrough is largely bypassed by the A63, meaning that much of the settlement, including its facilities and services lie to the south of it. Further to the west of the appeal site, there is residential and commercial development to the north of the A63 (on the same side as the appeal site). However, those areas of development, notably the residential parts, feature well-defined, wide footways with street lighting.

13. The frontage of the appeal site to the A63 does not. The road here is unlit, and the footway, such as it is, is more informal and of narrower width.
14. When travelling in either direction along the A63, the appeal site appears rural. Despite its currently close-mown appearance and relatively new hedge planting and fencing, it appears more rural than urban, and has a distinctly countryside character and appearance. The equestrian related development between the site and the existing house adds to this. To either side of the site along the A63 are undeveloped parcels of land in what appears to be agricultural use, reinforcing that rural character and appearance. This character persists when the site is seen from the junction of School Road with the A63.
15. There are relatively new houses in the apex of the junction between School Road and the A63, and there is housing along the southern side of the A63 east of the appeal site. The housing in the apex of that junction differs from the otherwise linear and road-fronting housing elsewhere along the A63 and elsewhere along School Road in terms of its 'private-drive' type access and layout. Further, those houses, including Hemingbrough Hall, The Old Rectory and Touchwood Barn close-by already appear somewhat distinct and separate from the rest of Hemingbrough, both on plan, and on the ground when travelling along School Road or the A63. In my opinion these therefore reinforce the countryside, rural character and appearance of the site, rather than lend weight to any suggestion that the site lies within, or otherwise immediately adjacent to the built area of the settlement.
16. In my opinion, the A63 provides a clear visual and spatial break between Hemingbrough and the site, irrespective of other development to the south, east or west, and indeed, irrespective of the location of the Hemingbrough signs along the A63. Indeed, the separation of the site from Hemingbrough is reinforced by the lack of formal crossings over the A63, the difficulty in crossing it given the speed and volume of traffic, and indeed, the road signs which explicitly direct traffic along School Road to access the "Village centre".
17. Accepting that the proposal is in outline with all matters reserved, the proposal would nevertheless introduce a cluster of dwellings in a location which I have found to have a distinctly rural, and out-of-settlement character and appearance. Irrespective of its final layout, appearance, landscaping and scale, the proposal in this location would therefore appear incongruous, isolated, and poorly related to the main settlement. Such development would not relate well to the existing, established pattern of development or growth of Hemingbrough or its immediate surroundings.
18. Therefore, even given its outline status, I find that the proposal would cause significant harm to the character of the area. This harm would result in significant conflict with the development plan, notably policies ENV1 and SP19 of the Local Plan. These seek, amongst other things, to ensure that development takes account of its effect on the character of the area and has regard to local character, context, settlement patterns and local identity. The proposal would also conflict with national policy on the same set out in the National Planning Policy Framework (the Framework).

Other matters

19. Third parties, including the Parish Council have objected to the proposal in highway safety terms, raising concerns about the speed and volume of traffic along the A63, and the relationship of the proposal to it. No Local Highway Authority comments were received by the Council, so there is no formal, technical appraisal of the proposal in those terms. However, having visited the site, travelled along the A63 in both directions past it, crossed the A63 on foot and walked alongside it, I understand and appreciate those concerns, and am somewhat surprised at the lack of any consultation response addressing them. Despite that however, highway safety was not a reason for refusal, and in light of my conclusions above on the main issues, I do not consider it necessary to take this point further.

Planning balance

20. The appellant has presented their case on the basis of the proposal providing self-build or custom housing for retirement and downsizing occupants. However, whilst they have submitted a unilateral undertaking which would secure the plots for self-build or custom housing in accordance with the statutory definitions, there is nothing which would secure them for retirement or downsizing occupiers. Similarly, as the application is made in outline with all matters reserved, there is nothing beyond a potential condition, wording for which no party has suggested, which would ensure that eventual development on the site was delivered as bungalows as relied on in the appeal. I note that the Council's description of the proposal referred to bungalows, but as I have set out in my Preliminary Matters above, the original application form did not, despite references to bungalows within the Design and Access Statement. Allied to that, there is no evidence before me as to the particular local need for the development proposed.
21. I note the case of the appellant that the emerging local plan identifies that there is capacity within the village for future development, and that this reinforces the vibrancy and sustainability of the location. However, the evidence before me as to the stage of preparation of that emerging plan is limited, and in any event, identification of the capacity of the settlement to accommodate growth does not alter or otherwise outweigh my findings on the particular character of this site, this proposal, its relationship to the settlement, and its effect on the character of the area. Those findings, particularly on character, endure regardless of the status of the Local Plan.
22. I note that the Local Plan is of some age, pre-dating the Framework. I also note the support in the Framework for self-build and custom housing as well as housing for an aging population. As such, there is a balance to be struck between that national policy support, and the overall spatial strategy of the Local Plan, irrespective of its apparent silence on these specific types and tenure of housing. I must also acknowledge that delivery of housing, of any type, does benefit from support in the Framework around delivering a sufficient supply of homes and significantly boosting the supply of homes. Despite that, the appellant does not suggest that there is otherwise a housing-land supply shortfall, only that the Council has been delayed in bringing forward a new plan, and that there is national policy support for self-build and custom housing.

23. Whilst I acknowledge that national policy support, there is limited evidence before me on the need for self-build and custom housing, or retirement/downsizing housing, either at planning authority level or settlement level. As a result, I find that whilst such national policy support is a material consideration which weighs in favour of the proposal, it is not of sufficient weight to outweigh the significant harm I have found, as well as the significant conflict with the development plan as set out above.
24. My attention has been drawn to the conclusions of an Inspector on a previous appeal for housing nearby, but also beyond the settlement boundary of Hemingbrough. Whilst I acknowledge that decision, I find nothing in it which leads me to alter my conclusions on this case. That site, whilst also beyond settlement limits, is much more closely related to the core of Hemingbrough, with development apparently close by on three sides and not separated from the village core by the A63. In addition, that proposal was allocated in the emerging local plan. I note also that whilst the Inspector in that appeal gave limited weight to the conflict between that proposal and the spatial development strategy outlined in the Local Plan for various reasons, they did nevertheless conclude that the spatial development strategy in its entirety was not rendered out-of-date as a result.
25. Even if I were to find that the spatial development strategy in Policy SP2 of the Local Plan was out of date, then the harm which the proposal would cause to the character of the area, irrespective of the spatial development strategy and settlement boundary, would weigh significantly against the proposal. Such a finding would conflict with national policy in the Framework regardless of the age of, and weight to be given to the Local Plan. Such a finding is entirely consistent with the conclusions of the Inspector in that case.
26. Whilst consistency in the planning process is important and like cases should be decided in a like manner, I do not find that these cases are so alike that my conclusions on the appeal proposal should be bound by the findings of another Inspector on another proposal.
27. Taking all of this together, I find that whilst there are material considerations which weigh in favour of the proposal, I do not consider that they are of such weight to indicate that a decision be taken other than in accordance with the development plan.

Conclusion

28. I have found that the proposal would conflict significantly with the development plan. The material considerations which weigh in its favour do not outweigh that conflict or indicate that a decision be taken other than in accordance with the development plan.
29. The appeal should therefore be dismissed.

S Dean

INSPECTOR