



Appeal Decision

Site visit made on 20 November 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/U2750/W/24/3346182

Old School House, Hillam Road, Gateforth, Selby YO8 9LQ

- 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 & Mrs Dale and India Barlow against the decision of North Yorkshire Council.
 - The application Ref is 2022/1433/OUT.
 - The development proposed is described in the appeal form as "Outline planning application for the erection of a new affordable dwelling (all matters reserved)"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence indicates that the main parties agreed to amend the description of the proposal during the course of the application. The amended description has been used in the Council's officer report and decision notice, in addition to the appellant's appeal form and statement. I have therefore referred to the amended description in the banner header above.
3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) was published. Both main parties have been given an opportunity to provide comments on the revised Framework and the implications for this appeal. I will refer to the revised Framework where necessary below.
4. The Council has confirmed that, in view of the revised Framework and the new standard method for calculating housing land supply (HLS), the former District of Selby can now only demonstrate a 2.6-year deliverable HLS, including a 5% buffer. Both main parties have been given an opportunity to comment on the revised HLS position. I have therefore had regard to the HLS.
5. On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. The Council is currently consulting on a revised Pre-Submission Publication Local Plan (the emerging Local Plan) prior to submission to the Secretary of State for independent examination. In line with Paragraph 49 of the Framework, the Council has confirmed that emerging policies can be given some limited weight due to the advanced stage of preparation. A list of those emerging policies that are relevant to this appeal has been provided. Both main parties have been given an opportunity to comment on the emerging policies. I have therefore had regard to the emerging policies where relevant.

6. Since the appeal was submitted, several other linked appeals¹ in respect of enforcement matters at the appeal site have been determined. A copy of the decision has been provided by the appellant. The appeals related to the unauthorised siting of containers for residential use as an independent dwelling. The appeals were dismissed, and the enforcement notice upheld, however the alleged breach of planning control was amended to remove reference to the change of use of paddock land to residential garden and siting of associated residential paraphernalia and to amend the requirements of the notice accordingly. Both main parties have been given an opportunity to comment on this decision and so are not prejudiced by my consideration of it.

Main Issues

7. The main issues are:

- Whether the proposal would provide a suitable location for housing, with particular regard to the Council's spatial strategy and the provision of affordable housing;
- The effect of the proposal on the character and appearance of the area; and
- Whether the proposal would provide a biodiversity net gain.

Reasons

Whether the proposal would provide a suitable location for housing

8. Policy SP2 of the Selby District Core Strategy Local Plan Adoption Version 22 October 2013 (the Core Strategy) indicates that limited amounts of residential development may be absorbed inside the development limits of "Secondary Villages". However, development outside development limits may be permitted where it meets rural affordable housing need (which meets the provisions of Policy SP10). Policy SP10 of the Core Strategy states that, in the Secondary Villages, planning permission will be granted for small scale 'rural affordable housing' as an exception to normal planning policy provided various criteria are met, including; (i) the site is within or adjoining development limits; and (ii) a local need has been identified by a local housing needs survey.
9. The evidence indicates that Gateforth is a Secondary Village, and that the appeal site is located outside of but adjacent to its defined development limits. The proposal is described as an affordable dwelling, indicated to be for affordable home ownership on the application form. An executed Unilateral Undertaking (UU) has been provided that seeks to ensure the dwelling remains at a discounted rate (80% of open market value) in perpetuity.
10. A local housing needs survey for Gateforth has not been provided. A local need for affordable housing has therefore not been identified by a local housing needs survey. The appellants advise that they have been on the social housing list and self-build register for 2-3 years and find themselves in difficult financial circumstances. While I acknowledge these personal circumstances and the appellant's local connections, there is no substantive evidence before me in respect of the affordability of dwellings locally. Moreover, there is no evidence in respect of the comparative cost of the dwelling proposed, nor the

¹ Appeal Refs APP/U2750/C/24/3337921, APP/U2750/C/24/3337922, APP/U2750/C/24/3337923, APP/U2750/C/24/3337924, APP/U2750/C/24/3337925

resulting market value. Even if I were to accept that the submitted UU would secure the dwelling as discount market housing in perpetuity, it is therefore not clear that the proposed dwelling at 80% market value would meet the affordable housing need in this area.

11. While the explanatory text to Policy SP10 requires a local need to be identified and does not explicitly refer to a housing needs survey, the policy itself is clear that the local need must be identified by a local housing need survey.
12. The proposal therefore would not provide a suitable location for housing, with particular regard to the Council's spatial strategy and the provision of affordable housing, as it does not comply with criteria (ii) of Policy SP10 of the Core Strategy. As the dwelling would be outside of the development limits and it has not been demonstrated that it meets rural affordable housing need, it would also conflict with Policy SP2 of the Core Strategy. These policies, among other provisions, seek to direct the majority of new development to the towns and more sustainable villages, and ensure that rural exception sites address the needs of the local community.
13. Policy SG2 of the emerging Local Plan categories Gateforth as one of the "Smaller Villages". It supports windfall development adjacent to the main built-up area of Smaller Villages where appropriate to their scale, form and character. Similarly, emerging Policy HG2 supports very small-scale development adjacent to the main built-up area of the Smaller Villages provided it meets all 5 criteria listed. The development could be seen to represent incremental and commensurate growth of Gateforth. Whether it reflects the character and form of the village, respects the intrinsic character and setting of the countryside and does not result in a harmful level of development is considered in the next main issue. However, there is no evidence before me that it provides a housing type which meets the housing requirement. Emerging Policy HG2 thus provides little support in this instance.
14. With regard to this main issue, the proposal would therefore conflict with Policies SG2, HG1, HG2 and HG8 of the emerging Local Plan. These policies, among other provisions, set out the Council's spatial approach to development, and seek to meet local housing need through extant planning permissions, the allocation of new sites and windfall development in the Smaller Villages. They also support residential development on unallocated sites adjacent to the main built-up area of any settlement to meet rural affordable housing need, provided a local need has been identified through a local housing needs survey, among other criteria.

Character and appearance

15. Matters in respect of the appearance, landscaping, layout and scale of the dwelling are reserved. Nevertheless, the plans before me describe a single storey dwelling, shown indicatively located at the rear of Old School House, in the approximate location of the existing shipping containers.
16. Gateforth is laid out in a primarily linear arrangement, along Hillam Road. A wedge-shaped village green at the eastern end of the village tapers towards the centre. Here there is a higher density of dwellings, including a couple of short cul-de-sacs extending behind the dwellings on the south side of Hillam Road. At the western side of the village, the depth of residential development

extending beyond the road narrows, with dwellings typically fronting the street, and some ancillary structures and/or agricultural buildings behind.

17. The village is surrounded by open countryside, predominantly characterised by large, flat fields, enclosed by hedgerow in places, with scattered pockets of woodland. A large field separates the appeal site and its immediate neighbours from the rest of the village on the south side of Hillam Road. Combined with existing outbuildings on the south side of Hillam Road and the agricultural style building behind the appeal site, this provides a somewhat gradual transition from the village core to the surrounding countryside.
18. The site for the proposed dwelling would be partially screened from north, south and east by built development. Nevertheless, from Hillam Road, the appeal site is visible when looking out towards the countryside from the village. The site is also visible across the countryside in more distant views from further west along Hillam Road, and from where much of the rest of the village is obscured. The site can also be seen from Pale Lane to the east, and in passing in the gap between Melton Cottage and Old School House.
19. The proposed dwelling would sit beyond the existing outbuildings on the south side of Hillam Road, and its footprint would be relatively large. While only limited details are before me, given the somewhat isolated relationship of the appeal site to the central part of the village, and its visibility from various vantage points, the proposed dwelling would inevitably be a conspicuous incursion of residential development towards the countryside. Moreover, it would be a form of "backland" development that would appear incongruous in its immediate context. This would erode the site's contribution to the prevailing pattern of development and the setting of the village.
20. I recognise there are examples of dwellings located behind other dwellings elsewhere in the village. These however take the form of planned cul-de-sacs, clustered towards the centre of the village. Their influence on the character and appearance of the village and its landscape setting are thus different.
21. While the existing containers are of no architectural merit, the outstanding enforcement notice requires their removal. There is thus no compelling evidence that the proposed dwelling would provide a visual enhancement. Additional soft landscaping at the appeal site could provide some enhancement in this regard however, owing to the nature of the application, there is little detail of the soft landscaping proposals or how effective these may be.
22. The proposal would have a harmful effect on the character and appearance of the area. It would be contrary to Policies SP10, SP18 and SP19 of the Core Strategy, and Policy ENV1 of the Selby District Local Plan Adoption Draft Part 1 – General Policies February 2005 (the Local Plan). These policies, among other provisions, require that development is sympathetic to the form, character and landscape setting of the village, and seek to sustain the high quality and local distinctiveness of the natural and man-made environment, ensuring that all proposals have regard to local character, identity and the context of their surroundings, including settlement patterns and the open countryside.
23. In respect of this main issue, the proposal would also conflict with Policies SG1, SG2, HG2 and HG8 of the emerging Local Plan. These policies, among other provisions, require regard to be had to the relationship of the site to the existing built form and to the form and scale of the settlement, and support

windfall development adjacent to the main built-up area of Smaller Villages where it is appropriate to their scale, form and character, respects the intrinsic character and setting of the countryside and does not result in a harmful level of development.

Biodiversity

24. Policy SP18 of the Core Strategy seeks to ensure developments produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate. This is consistent with paragraph 187 of the Framework, which seeks to ensure that decisions provide net gains for biodiversity.
25. The plans and supporting information before me are limited in detail due to the nature of the application. Nevertheless, the Council has assessed the site as being of low ecological value and, from my own observations on site, there is no compelling reason for me to come to a different conclusion.
26. The proposed site layout plan indicates that the dwelling would occupy a large part of the site. However, given its limited ecological value, I am satisfied that there would remain sufficient space within the site such that a scheme could be devised that would provide additional planting and/or other biodiversity enhancement measures in order to achieve a biodiversity net gain.
27. I have therefore not identified any conflict with Policy SP18 of the Core Strategy which, among other provisions, seeks to sustain the high quality and local distinctiveness of the natural environment, including by promoting effective stewardship of wildlife and encouraging incorporation of positive biodiversity actions.

Other Matters

28. Paragraph 11(d) of the Framework indicates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
29. The current deliverable HLS for the former District of Selby is 2.6-years, a significant undersupply. The delivery of new housing must therefore be afforded considerable weight. In such cases, Paragraph 11(d) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
30. The development would provide a temporary economic boost during construction and a modest contribution to housing delivery. However, Gateforth is designated as a Secondary Village in the development plan and based on the evidence and my own observations, has limited services itself and heavy reliance on the private car. There is little evidence before me in respect of the accessibility of local services in nearby villages.

31. The provision of an electric car charging point would provide a modest environmental benefit and the appellant's personal circumstances and proximity to relatives would mitigate some car journeys. However, personal circumstances are subject to change, and in any event must be balanced against the need to travel to access local services. The benefits of the location of the development are therefore limited.
32. The appellant states that the proposal will also comprise a self-build unit in accordance with the legal definition set out within the Self-Build and Custom Housebuilding Act 2015 (the Act). Section 2A of the Act requires that enough serviced plots of land be granted planning permission to meet the demand for self-build and custom housebuilding. The evidence indicates that the Council cannot demonstrate an adequate supply of self-build plots. In such circumstances, this would weigh in favour of the proposal.
33. In this case, the application is in outline, the development is not referred to as self-build in the description, and the UU before me does not require that the dwelling be delivered in accordance with the legal definition in the Act. Neither party has proposed any planning conditions in respect of this matter, and a planning condition requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests within paragraph 57 of the Framework. There is thus no mechanism before me that would guarantee the scheme would meet the definition of self-build or custom build homes. The potential for the scheme to provide a self-build unit therefore carries only limited weight.
34. Paragraph 82 of the Framework supports opportunities to bring forward affordable housing to meet identified local needs in rural areas. This is consistent with Policies SP2 and SP10 of the Core Strategy. Footnote 29 of the Framework states that self and custom-build properties could provide market or affordable housing. However, while the proposal may provide a discount market rate dwelling, whether this would meet identified local needs has not been adequately demonstrated.
35. Biodiversity enhancement measures could be incorporated into the development, which could provide a net gain in line with Paragraph 187 of the Framework. Likewise, the dwelling could be designed to incorporate renewable energy measures. Nevertheless, only limited details of these have been provided. Moreover, any measures that simply mitigate the environmental impacts of the development would be neutral in the planning balance.
36. There is no compelling evidence that the site is previously developed land as defined in Annex 2 of the Framework and the site's position on the periphery of the village and its relationship to nearby buildings would not provide infill development.
37. Paragraph 135 of the Framework seeks to ensure that developments add to the overall quality of the area, are visually attractive as a result of good layout and appropriate and effective landscaping, are sympathetic to local character including the surrounding built environment and landscape setting and maintain a strong sense of place. Policies SP10, SP18 and SP19 of the Core Strategy, and Policy ENV1 of the Local Plan are consistent in this regard, as are relevant emerging Local Plan policies. The harm and development plan conflict identified above therefore attracts significant weight.

38. The adverse impacts of the proposal would thus significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework taken as a whole. Accordingly, Paragraph 11(d)(ii) of the Framework indicates that the presumption in favour of sustainable development does not apply in this instance.
39. The appellant has referred to an appeal decision² in Leicestershire relating to 30 self-build plots outside of the development limits. However, this was determined in a different local authority area, and was for a significantly greater number of dwellings. It is thus materially different to the scheme before me and does not demonstrate that the appeal proposal is acceptable with regard to the main issues.

Conclusion

40. While I have not identified conflict with Policy SP18 of the Core Strategy, this does not outweigh the other harm and development plan conflict identified. The appeal proposal therefore conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR

² Appeal Ref APP/G2435/W/18/3214451