
Appeal Decision

Site visit made on 18 February 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/U2750/W/24/3355207

Land east of Ripon Road, Killinghall

- 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 M Hassall against the decision of North Yorkshire Council.
 - The application reference is ZC24/00415/OUT.
 - The development proposed is the erection of one self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with appearance, landscaping, layout and scale reserved for future consideration. I have determined the appeal on this basis, treating supporting plans other than those relating to access as illustrative.

Main Issues

3. The main issues are:
 - whether the proposal would be in a suitable location for housing having regard to the development strategy for the area; and
 - the effect of the proposal on the character and appearance of the area, including the Special Landscape Area.

Reasons

Development Strategy

4. Policy GS2 of the 2020 adopted Harrogate District Local Plan 2014 – 2035 (the LP) sets out the development strategy for the area. This is based on meeting the need for new homes and jobs as far as possible by focusing growth within the district's main settlements, settlements on the key public transport corridors and a new settlement within the Green Hammerton/Cattal area. The policy defines a settlement hierarchy to assist with this. Policy GS3 of the LP defines development limits for the places named in the settlement hierarchy.
5. The appeal site lies outside the development limit of Killinghall, a Service Village in Policy GS2, and one identified as having a demonstrably wider range of services and facilities than other villages. The supporting text to Policy GS3 confirms that any land and buildings outside the defined development limit will generally be considered countryside. Policy GS3 states that outside development limits,

proposals for new development will only be supported where expressly permitted by other policies of the LP, a neighbourhood plan or national planning policy.

6. Policy HS3 requires developers of strategic sites of 500 dwellings or more to supply at least 5% of dwelling plots for sale to self-builders. The supporting text states that a proportion of self builds will come forward on small sites and single plots on infill sites and sites on the edges of settlements. However, this is in the supporting text rather than the policy. Consequently, in my judgement, Policy HS3 would not represent a policy that expressly permits the proposed development were I to find that it would deliver self-build and custom housing, a matter which is addressed below. I am also not persuaded that the statements in the National Planning Policy Framework (the Framework) about self-build and custom housing represent a policy that expressly permits the proposal.
7. The main parties have not drawn attention to any other policies in the LP or national planning policy which would, in my view, expressly permit the proposed development at the site. A neighbourhood plan has not been identified as covering the area. The proposed development would therefore conflict with Policies GS2 and GS3 of the LP in terms of its location.
8. Based on the submitted evidence and my site visit observations, there are some services and facilities within around a kilometre of the site at Killinghall and around 1.4km in Harrogate. I appreciate that the distances are greater than those set out in the Chartered Institution of Highways and Transportation Planning for Walking report (2015) and Sustrans guidance: Walkable Neighbourhoods: building in the right places to reduce car dependency (2022). However, I am mindful that these distances are not advised as maximum figures, and my attention has not been drawn to any development plan policy where they have been adopted as standards.
9. There are bus stops located close to the site. These are served by services to Harrogate, Leeds and Ripon. I appreciate that to access the Ripon bus service, it would be necessary to cross the A61 (Ripon Road). However, while the volume of vehicles may be off-putting for some, in my view the road would not be an insurmountable barrier to using this service.
10. There is a footway between the site and Killinghall and Harrogate which runs alongside Ripon Road. During my site visit, which I appreciate is just a snapshot in time, I observed a few pedestrians using the footway, and so it does provide a means of travel by modes other than the private motor vehicle. Nonetheless, the volume of vehicles on the road and the absence of streetlights for much of the distance would not make for a particularly pleasant walking or cycling environment between the site and Killinghall and Harrogate, especially during darker winter months or in inclement weather. The sloping topography for part of the distance could also deter some pedestrians and cyclists.
11. The services and facilities in Killinghall could also be accessed along Grainbeck Lane. This road appears to be noticeably less busy than Ripon Road but there is no street lighting or separate footway for much of its length.
12. Given this context, some journeys to and from the site would likely be made by private motor vehicle. However, occupiers of the proposed dwelling would have some choice of how to travel by modes of transport other than the private motor

vehicle and so would not be solely dependent on a vehicle to access at least some services and facilities.

13. Nevertheless, there would be conflict with Policies GS2 and GS3 of the LP, which seek to focus new development within the defined development limits. Due to this conflict, I conclude that the proposal would not be in a suitable location for housing having regard to the development strategy for the area.

Character and Appearance

14. The site lies within Area 24 (Lower Nidderdale Valley northwest of Harrogate) character area as defined in the 2004 Harrogate Landscape Character Assessment. Key characteristics are identified as a large-scale broad valley with a flat floor that channels extensive views, and that it is an important gateway for Harrogate and Nidderdale. The site lies within a Special Landscape Area (SLA) as identified in Policy NE4 of the LP.
15. While the site may not be viewed in the same street scene as the properties along Knox Mill Lane from vantage points along Ripon Road and Grainbeck Lane, it nevertheless sits within a small but identifiable grouping of development. When approaching from the north, this includes the dwellings to the west of Ripon Road, the dwelling at Warren Bank Top which is clearly visible due to its elevated position, the commercial building opposite the site and the dwelling with its domestic boundary treatment at the junction of Ripon Road with Knox Mill Lane. The dwelling would sit in between Warren Bank Top and its grounds and the property at Warren Bank which accesses onto Knox Mill Lane. The trees that are around the boundary of the site would filter views of the proposed dwelling from the surrounding area even during winter months and afford a sense of containment to the site.
16. There is a public right of way (PRoW) to the east. From vantage points along the PRoW, the boundary vegetation would help to screen the proposed development. Where visible from the PRoW, it would be seen within the context of the dwelling at Warren Bank Top and several of the properties that are located off Knox Mill Lane. Consequently, it would be read as part of this group of development. Views of the open countryside would not be restricted by the proposal and the nature of these views would not noticeably change.
17. Given this context, the proposal would be contained within the wider landscape and would not significantly protrude into the countryside. The landscape and visual effects of the proposal on the wider area would be limited.
18. While it may be the case that a dwelling could not align with the one at Warren Bank Top, this of itself would not result in harm to the character and appearance of the area. While being mindful of the matters that are reserved for future consideration, in my view, the plot's size could accommodate a dwelling that would respect the siting and scale found in the surrounding area, even taking account of the trees that are within the Tree Preservation Order. Additionally, there appears to be no reason why the boundary vegetation could not be supplemented to maintain the verdant character and appearance of the site frontage.
19. The proposal would introduce a new dwelling and associated domestic paraphernalia onto a site that is presently free from built development. This would inevitably alter its character and appearance. However, change does not

necessarily equate to harm. Given the context described above, I am satisfied that a dwelling would assimilate satisfactorily into the grouping of development in this location without a significant loss of key landscape characteristics, including those that contribute to the quality of the SLA and the setting of Harrogate.

20. Consequently, I conclude that the proposal would not cause harm to the character and appearance of the area including to the SLA. As such, there would be no conflict with Policies NE4 and HP3 of the LP. Amongst other matters, these policies seek to avoid adverse impact on the quality of SLAs and protect, enhance, restore, or reinforce landscape character and local distinctiveness.

Other Considerations

21. The proposal would provide one self-build dwelling. The Council is required to keep a register of those seeking to acquire serviced plots for self-build and custom housing in the area under the requirements of the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). The Act also requires Councils to give enough suitable development permissions to meet the identified demand for self-build and custom housing.
22. Policy HS3 of the LP which addresses self-build and custom housing is summarised above. The Framework states that local planning authorities should seek opportunities to support small sites to come forward for self-build and custom housing to promote the development of a good mix of sites.
23. Very limited information on the demand for and supply of self-build and custom housing has been submitted in evidence. The Council's officer report identifies that as of October 2022 there was a shortfall in supply. The officer report goes on to state that there were five planning applications pending a decision which would deliver around 300 plots of self-build and custom housing, although if permitted, would have a phased delivery. The proposal would therefore make a small, but valuable contribution to meeting demand for self-build and custom housing, if it can be secured as such.
24. The appeal proposal is accompanied by a draft Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). However, the UU is not an executed and certified copy. Consequently, notwithstanding that its provisions would ensure that the proposal would be a form of development that accords with the legal definition of self-build and custom housing as defined in the Act, it is not a completed UU. As such I cannot give it weight.
25. In my judgement, reliance on just the description of development to secure the dwelling as self-build and custom housing would not be sufficient to ensure that the dwelling would be constructed as such. A 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.
26. According to the Planning Practice Guidance, a positively worded condition which requires the entering into a section 106 agreement is unlikely to pass the test of enforceability. While it may be appropriate in exceptional circumstances to use a negatively worded condition requiring a section 106 agreement before certain development can commence, it has not been demonstrated that an exceptional circumstance exists in this case, such as clear evidence that the delivery of the development would otherwise be at serious risk.

27. There is therefore no mechanism to ensure that the proposal would be a self-build and custom house. As such, I have to assess the proposal as market housing.
28. The proposal would contribute one dwelling to the supply of housing, which would accord with the objective of the Framework regarding significantly boosting the supply of homes. There would also be social and economic benefits such as construction employment and additional residents supporting local services and facilities. These considerations weigh positively for the proposal. However, I do not afford such benefits very significant weight in the context of the Local Planning Authority being able to demonstrate more than a five-year supply of deliverable housing sites at the current time, and the quantum of development proposed.
29. Both parties agree that the position with regard to the supply of deliverable housing sites is due to change shortly because of the age of the LP. However, my assessment must be based on the housing land supply position that is in place at the time of my decision.
30. My attention has been drawn to an appeal decision¹ where substantial positive weight was given to the provision of self-build and custom housing. However, in that case, there was an executed UU to secure delivery of this type of housing. The appellant also highlights a scheme that was granted permission² by the Council outside the development limit of Scotton. Although full details of this proposal are not before me, it appears that the site in that case was much closer to the development limit than with the appeal proposal. As such, these examples are not directly analogous to the appeal proposal, which I have in any event assessed on its own planning merits.

Planning Balance and Conclusion

31. I have found that the proposal would not harm the character and appearance of the area, with a lack of harm being neutral in the planning balance. However, the proposal would not be in a suitable location for housing as it would undermine the planned approach to the distribution of development. The Framework states that the planning system should be genuinely plan-led. The conflict with the Council's development strategy is therefore a matter which I afford significant weight to.
32. Based on the evidence before me, there appears to be a shortfall in the supply of self-build and custom housing plots within the former district area. While there are several schemes that would contribute to the supply of such plots, there is no clear evidence on when or if these would come forward. However, as there is no mechanism before me to secure the proposed dwelling as self-build and custom housing, the Council's self-build shortfall has no bearing on this appeal.
33. Consequently, the other considerations in this case are not sufficient to outweigh the conflict with the development plan taken as a whole. I therefore conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR

¹ Reference APP/E2734/W/22/3293545

² Reference ZC23/02682/OUT