



Appeal Decision

Site visit made on 25 April 2025

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/U2750/W/25/3360163

Back Lane, Alne YO61 1TJ

- 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 D Cowton against the decision of North Yorkshire Council.
 - The application Ref is ZB23/02060/OUT.
 - The development proposed is the demolition of an existing building range used for equestrian purposes and subsequent erection of 3no. dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of an existing building range used for equestrian purposes and subsequent erection of 3no. dwellings at Back Lane, Alne YO61 1TJ in accordance with the terms of the application, Ref ZB23/02060/OUT subject to the conditions in the attached schedule.

Preliminary Matters

2. The application is made in outline with all matters reserved. I have determined the appeal on this basis. A plan has been submitted as part of the appeal which indicates how three dwellings could be accommodated on the site. I have taken this plan into account for indicative purposes only.

Main Issue

3. The main issue is whether or not the appeal site would be a sustainable location for housing development, having regard to the effect of the proposed development on the character and appearance of the area, including the significance of the Alne Conservation Area from development within its setting.

Reasons

4. The appeal site is located on the north side of Back Lane. The site currently contains a number of former agricultural buildings that were last used as a livery stable, planning permission for which was granted in 2004¹. The south side of Back Lane mostly comprises residential properties, with the north side displaying a more open rural character and this includes land to the north, east and west of the appeal site. There is a hedgerow with some mature trees along the southern boundary of the site adjacent to the lane. There are existing vehicular accesses to either side of the hedgerow.

¹ Planning Application Ref 03/01012/FUL

5. Policy S3 of the Hambleton Local Plan (2022) identifies Alne as a secondary village. In effect, this means that it is considered to be a sustainable place for new development. The appeal site is located at the northern edge of the village. Although there is no settlement boundary before me, the appeal site is without doubt located in an area where the village transitions into the more rural undeveloped land surrounding it. Nevertheless, the site is very close to the built form of the village, which appears to have also extended northwards towards the sports grounds. The site demonstrates a certain degree of affinity with the built form of the settlement both visually, physically and functionally. Policy S3 outlines, amongst other things, that support will be given for housing development that complies with the criteria set out in Policy HG5.
6. The site is not allocated for housing development. Policy HG5 sets out the approach towards proposals for housing development of unallocated 'windfall' sites. The policy provides support for the development of such sites where they are adjacent to the built form of a defined village where such proposals demonstrate a number of criteria.
7. The site is directly opposite residential properties. It is not in dispute that these are within the built form of the village. It is also in very close proximity to the crossroad junction of Back Lane, Mitchell Lane and Gale Road which given the number of properties around this junction would also constitute the built form of the village. Therefore, despite the presence of open fields to the north, east and west, the site is adjacent to the built form of the village. I acknowledge that the supporting text of the policy refers to the terminology of 'immediately' adjacent to the built form. The Courts have held however that the term, in a planning context, should not be given an unduly prescriptive meaning and allows for both a degree of flexibility and the exercise of planning judgment and therefore can include 'near to'.
8. Therefore, the proposed development falls to be considered against the criteria outlined in Policy HG5. The first requirement to be demonstrated is that a sequential approach to site selection has been taken where it can be demonstrated that there is no suitable and viable previously developed land available within the built form of the village.
9. The appellant has outlined how they have reviewed the County's brownfield land register and there is no evidence of any suitable or previously developed land available within the village. An extract of the map showing this has been submitted. The Council's Strategic Housing Land Availability Assessment (SHLAA) has also been considered alongside online property sales to determine the availability of plots for sale within the built form of the village. It is concluded that there is no evidence of there being viable previously developed land available within the built form of the village that would be suitable to purchase and develop. It is also suggested that given the prevailing domestic and agricultural use of property and land adjoining the village, it is highly unlikely that there is previously developed land suitable for development within the village.
10. The supporting text to Policy HG5 sets out that the need to demonstrate that there are no pieces of previously developed land in the built form of the village that are suitable, available and achievable applies to proposals for the development of greenfield sites. The appeal site, comprising a former livery business constitutes previously developed land, as opposed to a greenfield site.

11. Taking the above into account, I consider that the proposed residential development of a previously developed site, combined with the assessment undertaken by the appellant is sufficient to meet with the aims of ensuring that there are no sequentially preferable sites.
12. The second limb of Policy HG5 requires that the development will provide a housing mix in terms of size, type and tenure, in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents. As an application for outline planning permission with all matters reserved, the requirement for the development to provide the appropriate housing mix can be secured by an appropriately worded planning condition.
13. It is not in dispute that the development would represent an incremental growth of the settlement that is commensurate to its size, scale, role and function and would thus comply with the third requirement of the policy. Based on the submitted evidence and my own observations on my site visit, I have no reason to form a different view.
14. The fourth limb of the policy requires that the development does not result in the loss of open space that is important to the historic form and layout of the village. The Council consider that the proposed development would be contrary to this limb of the policy as it is outside the built form of the settlement on land that is considered important to the setting of the village. I have considered the impact in terms of character and appearance, and the significance of the Alne Conservation Area (ACA) from development within its setting, elsewhere. For the purposes of this part of the policy, however, given the previously developed nature of the site and the number of buildings on it, the proposed development would not result in the loss of open space.
15. The fifth limb of the policy requires that development will have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
16. Part of the southern boundary of the appeal site is adjacent to the ACA. The ACA is characterised as a rural village with its historic core along the grass verged Main Street, with the subservient secondary Back Lane to the north and Monk Green to the south. The ACA has a number of notable features such as the trees, open spaces, historic buildings and building patterns which give the area its special attraction. Its significance lies in the historic layout of the village, the use of traditional high-quality materials and legibility of how past occupants used and interacted with buildings and open spaces.
17. Back Lane retains a rural character, particularly on its northern side and this forms part of the setting of the ACA. The requirement to consider the impact on the significance of a conservation area from development within its setting can be a material consideration in planning decisions as set out in the National Planning Policy Framework (2024) (the Framework), however it is not a statutory duty under s72 of the Act² as such duties apply to buildings or other land in a conservation area.

² Planning (Listed Buildings and Conservation Areas) Act 1990

18. The appeal site comprises a number of somewhat dilapidated former livery buildings. They have no significant architectural merit. When combined with the cluttered outdoor storage of various paraphernalia the appeal site adversely impacts upon the appearance of the area. The proposed development would not result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
19. The proposed development would be confined to the buildings on the appeal site and their curtilage. Whilst they may have originally been agricultural buildings, it is agreed by both main parties that the former use of the site was for a livery business. It would therefore constitute previously developed land. I accept that the openness and spaciousness of the land to the sides and rear positively contributes to the rural character and appearance of the area and the setting of the ACA, however this is not a characteristic shared by the appeal site. I do not find harm in terms of the different land use that would result, or the loss of a livery business, and it is not uncommon for residential properties to form part of rural environments.
20. As an outline application, no details relating to scale, appearance or layout have been submitted for approval. I am satisfied however, that in principle, the site can accommodate three dwellinghouses without causing harm to the character and appearance of the area or the significance of the ACA from development within its setting. It is within the decision makers power to ensure that the consideration of the relevant reserved matters has due regard to the special rural character and appearance of the appeal site and its surroundings, including the setting of the ACA. I am satisfied that, having regard to the requirement in the Framework that developments are of high-quality design, visually attractive and sympathetic to local character, the appeal site could successfully accommodate the proposed development without causing harm to the character and appearance of the area or the significance of the ACA.
21. As set out above, the proposed development therefore complies with the relevant criteria of Policy HC5 which outlines when housing developments will be supported when they are adjacent to the built form of secondary villages.
22. I therefore conclude that the appeal site would constitute a sustainable location for the housing development as set out. It would not cause harm to the character and appearance of the area or the significance of the ACA. It would comply with Policies S1, S3, S5, S7, HG5 and E5 of the Hambleton Local Plan (2022). These policies require, amongst other things, that housing development is sustainably located, that heritage assets are conserved, and that developments do not harm the character and appearance of the area.

Other Matters

23. I note comments received in relation to future tree and hedge planting and how this may impact on living conditions, property, and character and appearance. Landscape is not a matter before me in this appeal against the refusal of outline planning permission. Such matters may be considered during the future consideration of the landscape reserved matter.
24. There is no development proposed on the field opposite Cairngorm. It is not within the confines of this appeal to comment on the future of the adjacent land.

25. There are likely to be technical solutions with regard to dealing with the sewerage and electricity, but these should be addressed through the Building Regulations and consultation with the relevant utility providers rather than through the planning application process. In terms of drainage, I have imposed a condition requiring the submission of details of the sustainable drainage system to minimise the risk of flooding.
26. A number of highways matters have been raised. Means of access is reserved for future approval. In terms of the speed limit, there is nothing before me to suggest that the proposed development would harm highway safety. The matter of speed limits is also subject to separate legislation and can be considered outside of this planning application.
27. I note the concerns expressed in terms of the impact on local services or the lack of such services at the present time. Having regard to the quantum of dwellings proposed, there is nothing to suggest that the development should be prevented due to such impacts, many of which are outside of the scope of this application. Some such services can be dependent on the use of residents and the addition of a small number of residents to the community is more likely to support services than adversely impact on their provision.
28. The matter of light pollution has been raised. Given the scale of the development and that it would take place on previously developed land adjacent to the existing built form of the village, I do not consider that this would cause harm.
29. The fact that there would be no provision of affordable housing has also been raised. This is not however pertinent to the main issue, and I am not aware of there being any such requirement for affordable housing to be provided for a development of this size.

Conditions

30. I have considered the conditions put forward by the Council against the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
31. In addition to the standard time limit condition, I have attached conditions relating to the submission of reserved matters and the time limits associated with this.
32. There is no need to impose a condition requiring that the development is carried out in accordance with the location plan. Having regard to the Council's Housing Supplementary Planning Document (2022) (SPD), I have imposed conditions requiring that the size and mix of dwellings should be in accordance with the guidance. However, given the number of dwellings proposed, it would not be possible to fully comply with the housing mix set out in the SPD and therefore the housing mix should have regard to the SPD.
33. In the interests of highway safety and the living conditions of occupants of surrounding residential properties, a condition requiring the submission of a construction method statement is necessary. It is required prior to the commencement of development to ensure that the approved measures are in place from the outset.
34. I have also imposed a condition requiring the submission of details of the sustainable drainage system. This is necessary in order to minimise the risk of

flooding on site and off site. The details are required to be submitted prior to the commencement of the development to ensure that such measures are built into the development from the outset.

35. Conditions to ensure that there is no risk from land contamination are also necessary. The submission of a Phase 2 assessment is required prior to the commencement of development to ensure that any necessary remediation is undertaken at the earliest opportunity.
36. In the interests of biodiversity, I have imposed a condition requiring that the development is carried out in accordance with the recommendations as set out in the Preliminary Ecological Appraisal.
37. Details of site levels are not required at this stage and can be submitted during the consideration of reserved matters. As landscape and access are reserved matters for future approval, it is not necessary to impose conditions requiring the submission of a landscape scheme or relating to access and visibility splays. Similarly, as the layout is reserved for future approval, conditions relating to parking and turning areas are not necessary.
38. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. No clear justification has been put forward in this case to remove such rights and I have not imposed a condition to this effect.

Conclusion

39. Section 38(6) of the Act³ requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework, at paragraph 11(c), requires that for decision making, development proposals that accord with an up-to date development plan should be approved without delay. The proposed development would also comply with the Government's objective of significantly boosting the supply of homes.
40. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

³ Planning and Compulsory Purchase Act 2004

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The size of each dwelling in the reserved matters submission shall meet the size requirements as expressed in the Nationally Described Space Standards and the mix of the dwellings shall have regard to the requirements of the Housing SPD (2022).
- 5) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) details of any temporary construction access to the site including measures for removal following completion of construction works.
 - ii) wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway.
 - iii) The parking of contractors' vehicles; areas for storage of plant and materials used in constructing the development clear of the highway.
 - iv) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
 - v) hours of operation.
 - vi) storage location of materials and machinery.
 - vii) location of staff welfare facilities, office location and staff/contractor parking.
 - viii) construction site traffic movements including deliveries.
 - ix) siting of any lighting provision, type and controls.
 - x) how dust emissions will be reduced, monitored and managed.
 - xi) details of any piling to take place including duration and equipment type to be used, and a complaints procedure for local residents.
 - xii) how machinery, equipment and earth works will comply with the British Standards BS 5228-1:2009 Code of practice for noise and vibration control on construction and open sites, Part 1: Noise. In circumstances where vibration is a potential source of impact it is anticipated that an appropriate vibration / screening survey or prediction report be proposed and details submitted.
 - xiii) Details of the community engagement arrangements that will be in place throughout ground preparation and construction phases.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
- i) details of separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.
 - ii) details of new areas of hard surfacing to be formed using porous materials or an alternative solution that allows direct run-off water from the hard surface to an area that allows the water to drain away naturally within the curtilage of the property.
 - iii) a timetable for its implementation; and,
 - iv) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

- 7) No development shall be commenced until a Phase 2 assessment of the risks posed by contamination, carried out in line with the Environment Agency's Procedures for Land Contamination Risk Management (LCRM), has been submitted to and approved by the local planning authority.
- 8) Where contamination is identified, prior to any site preparation work, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 9) Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.
- 10) The development shall be carried out in accordance with the recommendations set out in Section 7 and 8 of the Preliminary Ecological Appraisal prepared by B J Collins and dated December 2023.

----- end of conditions schedule -----