



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: 4 July 2025

Appeal Ref: APP/U2750/W/25/3359973

Gill Moor Farm, Bowes Green House to Moorfield House, Bishop Thornton, North Yorkshire HG3 3LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Wheeler Investco against the decision of North Yorkshire Council.
 - The application Ref is ZC24/03165/FUL.
 - The development proposed is the demolition of existing buildings and erection of 1no. residential dwelling with associated infrastructure and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's third reason for the refusal of planning permission related to the absence of details to determine the impacts and mitigation measures pertaining to bats. Additional information has been submitted with the appeal. The Council consider that the additional information addresses the third reason for refusal. I have no reason to form a different view and will therefore determine the appeal based on the other two reasons for refusal.

Main Issues

3. The main issues are 1) whether or not, having regard to development plan policy, the appeal site would be a sustainable location for housing development, 2) the effect of the proposed development on the character and appearance of the area, and 3) whether or not the proposed development would provide acceptable living conditions for future occupants with regard to amenity space provision.

Reasons

Sustainable Location

4. The appeal site is located within the open countryside, approximately 2km to the north-west of the village of Bishop Thornton. There are residential properties to the east and south of the site with agricultural land to the north and west. The appeal site comprises two existing buildings, both of which are redundant and proposed to be demolished. There are mature trees at the boundary with the lane and part at the boundary with the agricultural land. These are set behind a stone wall. The proposed dwelling would occupy a similar position to the larger of the two existing buildings on site.

5. Policy GS2 of the Harrogate District Local Plan (2020) (the HDLP) sets out the housing growth strategy to 2035. The policy details a settlement hierarchy wherein sites are allocated in, amongst others, main settlements, local service centres and service villages. Development limits for places in the settlement hierarchy are identified under Policy GS3. Although Bishop Thornton is identified as a 'service village', the appeal site is located outside the Development Limit for the village. Therefore, the appeal site is in a location where residential development is not supported by the locational principles of the HDLP.
6. Policy GS3 of the HDLP outlines that outside development limits, proposals for new development will only be supported where expressly permitted by other policies in the plan, or a neighbourhood plan or national planning policy.
7. The policy outlines that in the absence of a five-year supply of housing land, proposals for new housing development on sites outside the development limit of a settlement will be considered in accordance with the presumption in favour of sustainable development set out in national planning policy. Such proposals should be consistent with the role of the settlement in the settlement hierarchy set out in policy GS2, not result in a disproportionate level of development compared to the existing settlement and meets the following criteria: A. The site is well related to the existing built form of the settlement; B. Development would not result in coalescence with a neighbouring settlement; C. There would be no adverse impact on the character and appearance of the surrounding countryside or heritage assets; D. The proposal is of a scale and nature that is in keeping with the core shape and form of the settlement and will not significantly harm its character, appearance, and setting.
8. The area around the appeal site contains no services and no public transport links. Whilst cycling is possible, it would be via existing country lanes and roads as opposed to dedicated cycle lanes. Whilst there are public rights of way in the vicinity these are far from harmonious and would not be viable routes at all times given the unmade nature of these routes and lack of street-lighting. The fact is, that the vast majority, if not all, journeys would be via private car which is the least sustainable form of travel. Whilst I appreciate that there is generally a greater reliance on the private car in rural areas such as this, it remains the case that there would be a significant lack of sustainable transport choices available to enable future residents to conveniently access facilities and in this respect the dwelling would be functionally isolated.
9. The justification for Policy G2 sets out that allowing development in the wider countryside would not result in a sustainable pattern of growth as many such locations offer little in the way of local services and facilities, can be in more isolated locations and/or may comprise of little more than a cluster of houses.
10. Paragraph 84 of the National Planning Policy Framework (the Framework) sets out that the development of isolated homes in the countryside should be avoided, unless one or more of specific criteria are met. It is not claimed that any of the exceptions are met in this case. There is some dispute over whether or not the development would constitute an isolated home. The Framework does not define 'isolated'.
11. In *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin) the judge found 'isolated' should be given its ordinary objective meaning of 'far away from

other places, buildings or people; remote' (Oxford English Dictionary). The judge also found that "the immediate context is the distinction in (2012) NPPF 55 (now para 83) between "rural communities", "settlements" and "villages" on the one hand, and "the countryside" on the other." This suggests that "isolated homes in the countryside" are not in communities and settlements and so the distinction between the two is primarily spatial/physical." In the same case, the Courts have also held that the word 'isolated' simply connotes a dwelling that is physically separate or remote from a settlement.

12. Whether, in a particular case, a proposed new dwelling is, or is not, "isolated" in this context or a group of dwellings constitutes a settlement, or a "village", for the purposes of the policy will be a matter of fact and planning judgment for the decision-maker.
13. I recognise that there are some dwellings in the vicinity of the appeal site, however these are very few in number. There is nothing to suggest the establishment of a community. I did not observe any of the most basic public installations or services such as road signs to identify the location or a post box. Additionally, the location is not identified within the settlement hierarchy. When combined with the very poor connectivity with the closest settlement, I consider that, as a matter of planning judgment, the proposed development would be physically separate and remote from a settlement and would result in the creation of an isolated home in the countryside.
14. Even if the development was not considered to result in the creation of an isolated home for the purposes of paragraph 84, there would be conflict with paragraph 115 of the Framework in terms of ensuring that developments prioritise sustainable transport modes, and that safe and suitable access to the site can be achieved for all users.
15. I therefore conclude that the appeal location would not be a sustainable location for the proposed housing development. The proposed development would be contrary to Policies GS2 and GS3 of the HDLP in terms of ensuring development is sustainably located. It would also be contrary to the requirements of the Framework as set out.

Character and Appearance

16. The Council's concerns in terms of the effect on the character and appearance of the area relate to the domestic encroachment into the paddock area, due to domestic paraphernalia. The appellant has outlined how the curtilage of the property would not extend to that area and that a boundary treatment could be installed to prevent this occurring.
17. The appeal site extends to the stone wall boundaries adjacent to the lane and the agricultural fields. This is the area of land for which planning permission is sought. An inset sets out a proposed curtilage for the property. Curtilage, however, defines an area of land in relation to a building and is not a use of land. Curtilage can change over time and is not reliant upon planning permission defining it. I have therefore considered the matter based on the larger red-line application site boundary. This is the land subject to the appeal.
18. Were the appeal to be allowed, I would find it almost inevitable that, given the location of the land, it would be used as private amenity space for the dwelling,

even if as the appellant suggests, it would be outside its curtilage. This is not least because any planning permission granted affects the whole of the site. Were the appellant's intentions to define the planning unit as the proposed curtilage, the red-line boundary should have reflected this.

19. The land to the side and rear of the existing buildings is currently somewhat overgrown. Nevertheless, the combination of its prominent trees, absence of development and stone wall boundary, positively contributes to the overall rural character of the area. Whilst the trees and boundary could be retained in any future proposals, the residential use of the land would inevitably bring domestic paraphernalia such as patio furniture, children's play equipment, trampolines, or parked vehicles. This would detract from the positive rural character at present and cause a moderate degree of harm.
20. I acknowledge however, the current poor quality of the existing buildings. The proposed development would remove these and replace them with a new building which in terms of its physical appearance would not cause the harm that is caused by the current buildings. The outdoor area is however more prominent, closer to the lane and more visible. Nevertheless, the improvement that would occur to the built form, which could be combined with additional planting, would result in there being only limited to minor harm to the surrounding area when taken as a whole.
21. The limited to minor harm to the character and appearance of the area would therefore result in the proposed development being contrary to Policy NE4 of the HDLP. This policy requires, amongst other things, that developments protect, enhance or restore the landscape character and its intrinsic beauty.

Living Conditions

22. The Council's Landscape Design Guide outlines that the minimum rear garden size that the Council will accept for three-bedroom homes and above is 100m². The document however outlines that the substantive aim is to guide applications for major development. The appeal development is not an application for major development.
23. As outlined above, I have considered the proposed development on the basis of the land subject to the appeal. Despite a smaller curtilage being shown, the land subject to the proposed development would be of a sufficient size and shape to provide acceptable living conditions for future occupants.
24. I therefore conclude that the proposed development would provide acceptable living conditions for future occupants with regard to amenity space provision. It would comply with Policy NE4 of the HDLP in terms of delivering social well-being in developments.

Other Matters

25. The evidence outlines that the Council are unable to demonstrate a five-year supply of deliverable housing sites.
26. The proposal would deliver housing and would result in an, albeit very small, increase in the Council's overall housing number. It would also bring a small number of additional residents to the area who would contribute to the local economy. These are benefits that weigh in favour of the appeal.

27. I have nevertheless identified that it would conflict with the policies designed to ensure that development is sustainably located and that it does not harm the character and appearance of the area. These policies are consistent with the aims of the Framework in terms of the delivery of sustainable development, avoiding the development of isolated homes, the prioritisation of sustainable transport modes, and that decisions enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. This alignment increases the weight given to the policy conflict. Therefore, the conflict with these policies results in the development conflicting with the development plan when taken as a whole.
28. Paragraph 11 d) ii of the Framework requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, developments should be granted planning permission 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.
29. This applies to applications involving the provision of housing in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. As the Council are unable to demonstrate a five-year supply of deliverable housing sites, it therefore follows that paragraph 11 d) of the Framework is engaged.
30. In terms of the proposed development, the starting point is therefore that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits.
31. In this case the adverse impacts of the proposal in terms of the harm with regard to the proposed development not being in a sustainable location, combined with the limited to minor harm that would be caused to the character and appearance of the area would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This includes having particular regard to key policies outlined in paragraphs 84 and 115 of the Framework in terms of avoiding the development of isolated homes and ensuring that sustainable transport modes are prioritised.
32. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.
33. The appeal site benefits from two extant consents utilising permitted development rights (Class R) secured via the prior approval process. Such permitted development rights are intended to encourage the reuse of redundant agricultural buildings to support the rural economy by providing more options for farm diversification. Class R is specifically for commercial uses and does not allow for residential conversions. Both consents are for the conversion of the existing building and are for flexible commercial uses, namely storage (use class B8) and bed and breakfast (use class C1). The appellant considers that the fallback would cause greater harm than the proposed development.
34. It is well founded that the consent does not have to have been implemented to form a viable fallback. *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314* confirms, however, that there should be a “real prospect” of a fallback

development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances. Although the possibility of the fallback position happening may be slight, this is sufficient to make the position a material consideration. The fallback is therefore a material consideration in the appeal.

35. There is however no substantive evidence to indicate that there is a real prospect that the fallback would be implemented should this appeal be dismissed or that there is an identified need for the uses at this location. This reduces the weight that I can attach to it as a fallback position. Furthermore, the fallback is a quite different use to the appeal proposal. It is for the reuse of the existing building for a flexible commercial use as opposed to the demolition of the existing building and the construction of a new dwellinghouse, with the latter being subject to the policies of the development plan and the Framework. It is materially different. The Council highlight how the reuse of buildings for residential and commercial purposes is supported by development plan policies. The Council have also highlighted how both consents of the fallback require the approval of additional planning applications in order to be implemented, permission for which has not been granted.
36. Having regard to the above, although I give the fallback significant weight in the decision, it does not outweigh the clear conflict with the development plan in this case.
37. I acknowledge that there are likely to be improvements in energy efficiency from the proposed development compared to the conversion of the current building. Such measures are generally a Building Regulations requirement, and it is not set out how any such measures would be exceeded in order to give them significant weight.
38. The appellant has referred to support for the proposed development being received from nearby residents. There are no letters of support before me in the appeal and no such correspondences were referred to in the Council's evidence. An interested party has stated that they do not object to the proposed development, however I have taken this as a neutral comment and not a letter of support.

Planning Balance and Conclusion

39. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
40. The outcome of the Framework paragraph 11 d) process above indicates that the decision should be taken in accordance with the development plan.
41. The proposed development would result in a small increase in the Council's overall housing number and would also bring a number of additional residents to the area who would contribute to the local economy. When combined with the Council being unable to demonstrate a five-year housing land supply and the fallback, collectively, I give these matters significant weight in favour of the proposed development.

42. However, the adverse impacts of the proposed development in terms of not being in a sustainable location, combined with the limited to minor harm that would be caused to the character and appearance of the site attracts greater significant weight that outweighs the benefits associated with the proposed development.
43. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework and the fallback, that outweigh this conflict.
44. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR