



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: 18 July 2025

Appeal Ref: APP/U2750/W/24/3357746

Land Comprising Former Prisoner of War Camp, Walshford Corner Cottages to Deighton Gates, Kirk Deighton, North Yorkshire, LS22 5HH

- 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 Astrum Planning Ltd, EDG Architecture and Mr Anthony Alton against the decision of North Yorkshire Council.
 - The application Ref is ZC23/03107/FUL.
 - The development proposed is redevelopment of prisoner of war hostel and agricultural land, including the demolition structures, apart from existing water tower (to be retained) and the construction of three new dwellings and new access, with landscaping and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am in receipt of amended plans from the plans considered by the Council. The amended plans incorporate features to address concerns relating to light spillage.
3. As these are minor amendments, and the Council's concerns on the original set of plans are clear in their evidence, I do not consider that their interests or those of any interested parties would be prejudiced if I take these amended plans into account. Therefore, having regard to the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the "Wheatcroft principles" set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982), I shall therefore determine the appeal on the basis of the amended plans.
4. Additionally, the Council have confirmed that their statement of case includes an assessment of whether the amendments would overcome the reasons for refusal.

Main Issues

5. The main issues are 1) whether or not, having regard to development plan policy, the appeal site would be a suitable location for housing development having specific regard to the non-designated heritage asset, 2) the effect of the proposed development on the character and appearance of the area, and 3) the effect of the proposed access on highway safety.

Reasons

Location of Housing Development

6. The appeal site comprises a rectangular shaped piece of land in the open countryside. It occupies an elevated site with an existing access from the A168. It contains the remains of single storey buildings which were used as a Prisoner of War Camp. The most intact element of the former use is a brick water tower which rises above the skeletal remains of the former camp buildings. A cycle path and footpath run broadly parallel with the A168 along the frontage of the site at a lower level. The site is surrounded by open agricultural fields on three sides.
7. 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. The appeal site is not within a settlement identified in the hierarchy and is therefore in the open countryside, in a location where residential development is not supported by the locational principles of the HDLP.
8. 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.
9. 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.
10. There are no services and no public transport links in the immediate area. The site is around 1.5 kilometres from the closest settlement which is Kirk Deighton. This settlement contains, amongst other things, a public house, church and cricket club. There are also bus stops in the village, albeit with a relatively infrequent service. It would be permissible to walk or cycle to the village from the appeal site, along the relatively straight and harmonious cycle path/footpath, although the lack of streetlighting may make this route less desirable during darkness. Despite this connection, it would be likely that most journeys would be via private car which is the least sustainable form of travel.
11. It is agreed between the main parties that the proposal would represent the development of isolated homes in the countryside. Paragraph 84 of the National Planning Policy Framework (2024) (the Framework) sets out that such development should be avoided, unless one or more of specific criteria are met. One such exception is b) that the development would represent the optimal viable use of a heritage asset.
12. The special significance of the appeal site stems from its former use as a Prisoner of War Camp reflecting the association of the county with the Second World War and an example of its contribution to military history. It is identified as forming part of a larger network of camps. It is a non-designated heritage asset.
13. The buildings on the site are all but ruinous, save for the brick water tower which remains in situ. They are also known to contain asbestos cement roofing. In their

current condition, it appears likely that they would suffer further deterioration due to the passage of time or require demolition on health and safety grounds.

14. The Council acknowledge the significance of the site in terms of its historic use. The proposed development is of a form which meaningfully reflects the shape, scale and siting of the original buildings, with a somewhat utilitarian appearance influenced by the appearance of the historic buildings. The appellants evidence demonstrates an appreciable understanding of the significance of the asset and how the proposed development has drawn inspiration from the original form of the site. With the retention of the water tower and the installation of an interpretation board, it is a highly commendable approach to redeveloping the site.
15. I acknowledge the loss of most of the historic fabric; however, this would appear to be inevitable, particularly in buildings of this nature where their installation was on an understandably temporary basis. The significance of the site nevertheless is not only in these buildings, but also, and arguably more so, in its historic use. The proposed development provides the opportunity for a sympathetic reuse of the site whilst thoughtfully reflecting the scale, siting and appearance of the historic buildings. The clearance of the site and its reversion to agricultural land, which it is presumed was its prior use, would cause a greater harm to the historic significance of the site than the proposed development.
16. Therefore, having regard to the condition of the existing buildings, the high-quality of the proposed development, including the retention of the water tower and the installation of an interpretation board, I find that there would not be harm to the significance of the non-designated heritage asset in this case.
17. In terms of paragraph 84 of the Framework, there is no definition of what constitutes an 'optimal viable use'. Having regard to the Oxford English Dictionary definition, I have taken this to mean the best or most favourable use which is economically sustainable and one that causes the least amount of harm to the significance of the heritage asset.
18. Given my finding above, I consider that the development in this case amounts to the optimal viable use of a heritage asset and therefore meets one of the exceptions for allowing the development of isolated homes in the countryside. The development would bring a legibility to the site which is not readily apparent at present and would provide the public with a greater insight to its former use, and the rationale and thinking behind the proposed development. An Archaeological Building Recording could be secured to ensure that there is a historic record of the site and structures prior to the undertaking of the development.
19. Therefore, although the site is within the open countryside, in a location where new housing development is generally unacceptable, the proposed development would comply with the requirement of Policy GS3 of the HDLP which, in the absence of a five-year supply of housing land, permits development outside settlements where it is expressly permitted by national policy. In this case, the development would constitute one of the exceptions in the Framework for allowing the development of isolated homes.
20. It would also comply with Policy HP2 of the HDLP in terms of ensuring that proposals affecting a heritage asset protect or enhance those features which contribute to its special architectural or historic interest.

Character and Appearance

21. In terms of character and appearance, the appeal site occupies an elevated position surrounded on three sides by open agricultural fields. It is within the Council's Landscape Character Appraisal Area 56 'North Wetherby Arable Rolling Land' and is part of a landscape that is identified in the Harrogate District Landscape Character Assessment (2004). Due to this relatively open elevated siting, the proposed development would be visible from a wide-ranging area including the A168 and the public footpath and cycleway. It would also be visible from long range views.
22. Whilst the development reflects the scale and siting of the previous buildings, it would bring about a more urbanising use to the area which is characterised as being predominantly made up of agricultural land with farmsteads and rural settlements. The residential use of the land would inevitably bring domestic paraphernalia such as patio furniture, children's play equipment, trampolines, and parked vehicles. This would detract from the rural character at present and cause a moderate degree of harm.
23. Such impacts could be mitigated through the additional landscaping, which is proposed, and planning conditions could be imposed to restrict permanent installations within the outdoor areas. The impact in terms of character and appearance must also acknowledge the unique and bespoke design of the development which, as I have identified, draws a clear inspiration from the historic buildings. It is also pertinent, that the site constitutes previously developed land. It is not in itself presently open, containing the skeletal remains of the historic buildings and a large area of hardstanding. Cumulatively, these factors reduce the level of harm from a moderate amount to a minor amount.
24. The matter of light pollution has been raised. I acknowledge that the development would introduce additional light sources to an otherwise unlit site. The amended designs will significantly mitigate the impact from the dwellinghouses. Furthermore, the lighting would be of a domestic scale which when combined with the landscaping proposed to the periphery of the site would have a limited impact. I conclude that this would not cause harm overall.
25. I acknowledge that in a previous appeal¹ an Inspector considered that a proposal for five residential properties at the site would cause harm to the character and appearance of the area. That appeal was against the refusal of outline planning permission where no details of scale or appearance were considered, although the Inspector considered that the visual impact would be significantly greater than the existing buildings, even if the development were to comprise single storey dwellings.
26. I would share the concern if the proposed development had failed to understand and appreciate the historical significance of the site. It is clear in my mind that a more generic residential development would not have been acceptable in character and appearance or heritage terms. Therefore, whilst there are some similarities between the development in this appeal and the previous appeal, there are significant differences as set out which warrant a different finding. I have also considered the matter on its individual planning merits.

¹ APP/E2734/W/17/3178109

27. The minor harm to the character and appearance of the area would therefore result in the proposed development being contrary to Policies HP3 and NE4 of the HDLP. These policies require, amongst other things, that developments protect, enhance or restore the landscape character and its intrinsic beauty.

Highway Safety

28. The proposed development includes the provision of a new access to the A168. On my site visit I was able to observe that due largely to the 60mph speed limit and the relatively straight carriageway, vehicles travel at speed along this section of the road. From the existing northern agricultural access and the existing site access, I was able to experience the effect that the existing dense hedge, which extends almost to the edge of the carriageway, has on visibility and also that the visibility of northbound traffic is impacted by a dip in the road to the south of the access.
29. In order to ensure that drivers would not need to 'nudge out' into the road to see if there is any oncoming traffic, ensuring there is not an unacceptable impact on highway safety and to reduce the risk of collision, the provision and establishment of clear visibility splays is of paramount importance in the proposed development.
30. The Council have raised concerns over the Automated Traffic Count (ATC) in terms of the timing and location. Speed surveys may be used to justify visibility splays on rural roads where the application of the Design Manual for Roads and Bridges (DMRB) standards would not be justified, for example where the evidence demonstrates vehicles do not travel at, or close to the speed limit, a visibility splay below the set standard could be justified.
31. In this case, the plans show a 2.4 metre x 215 metre splay in both directions at the proposed access. This is the amount recommended in the DMRB standards for a road with the national speed limit. I therefore consider that in this instance, given that the proposed visibility splay is that which is necessary for a road with the national speed limit, further speed surveys at the proposed access point to justify it, are not necessary. The appellants have given reasons why the submitted speed surveys were taken at the location they were, and this was in relation to the visibility splays for cyclists taking account of the expected speed to traffic entering the site. As a comparable junction, I find this approach to be reasonable. The fact that the surveys were undertaken during school holidays does not make them less valid when used for the purposes for recording the speed of traffic and in turn forming the design of the access. The speed of traffic recorded is unlikely to be affected due to school holidays.
32. The proposed visibility splays, and indeed the provision of the access itself, would require the removal of a substantial section of the existing hedge. Whilst the plans identify a specific area of hedging to be removed for the cyclist visibility splays, the driver visibility splays, which are shown to transect the hedges do not show the specific extent of removal that would be required. From the evidence before me and my own observations on my site visit, in order to achieve the full visibility splays that are necessary, this would likely require significant removal of hedging as opposed to the mere trimming or seasonal flailing suggested by the appellants. Subject to this demonstration, there may be further matters in terms of the impact on landscape and biodiversity which have not been addressed by either party. Also raised is the impact in terms of screening and a pollution buffer.

33. The visibility splays and the removal of much of the hedgerow is not within the planning application boundary nor is it declared as being within the appellants ownership. The Council maintain that the hedges are owned by a third party. The appellants have set out how the land is within the adopted highway. This has been shown on the proposed plans, although it is not the official plan of the adopted highway. Even so, whilst the land may be adopted highway it is not clear whether or not the land, and the hedges, are owned by a third party and this presents a degree of uncertainty. Although the Highway Authority has powers to remove existing obstructions within the adopted highway, I am not aware of there being such an obligation to do so in order to facilitate a private development. If the hedge only becomes an "obstruction" in the context of a new access for a private development, the onus is on the developer to ensure the necessary visibility is secured and maintained, and to demonstrate this in their proposal.
34. Given the significance of achieving the correct visibility splay in this case, for the reasons of highway safety, it is necessary to demonstrate not simply where the visibility splay should be, but how its provision and ongoing maintenance, in terms of keeping free from obstruction, will be legally secured and guaranteed. There is no firm commitment or credible pathway from any party of an agreement being imminent or having been agreed in principle. Therefore, in this instance I consider that solely relying on the fact that the land is within the adopted highway is insufficient to satisfy the highway safety concerns to definitively deliver the required safety standard in this case and justify granting planning permission.
35. Although there may be occasions where the installation and maintenance of visibility splays can be secured by an appropriate planning condition, the lack of certainty in this case is such that the use of a condition in the circumstances would not be appropriate. Such a condition could unreasonably impact upon the deliverability of the development proposed and, for this reason, it would fail to meet the tests for the imposition of conditions.
36. The appellants have referred to the betterment in terms of the existing access. I acknowledge the concerns surrounding the existing access; however, this does not serve a comparable development. It does not overcome my concerns set out above, and I give this limited weight.
37. I therefore conclude that the visibility splays are a fundamental highway safety requirement for the development. Without its guaranteed provision and future maintenance, the development would result in unacceptable harm to highway safety. The development would therefore be contrary to the requirement of the Framework that safe and suitable access to the site can be achieved.

Other Matters

38. The evidence outlines that the Council are unable to demonstrate a five-year supply of deliverable housing sites.
39. The proposal would deliver housing and would result in an 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.
40. I have nevertheless identified that it would conflict with the policies designed to ensure that development does not harm highway safety 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 that decisions enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and ensuring the safe operation of the highway. 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.

41. 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.
42. 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.
43. 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.
44. In this case, were there to be solely the minor harm that I have identified would be caused to the character and appearance of the area I would likely have found that this would not have significantly and demonstrably outweighed the benefits of the proposed development, when assessed against the policies in the Framework taken as a whole. However, when combined with the harm to highway safety, the adverse impacts of the proposal 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 one of the key policies outlined in paragraph 115 of the Framework in terms of ensuring safe and suitable access to the site can be achieved for all users. The Framework also requires that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
45. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.

Conclusion

46. 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, collectively, I give these matters significant weight in favour of the proposed development.
47. However, the adverse impacts of the proposed development in terms of highway safety, combined with the minor harm that would be caused to the character and appearance of the area, attracts greater significant weight that outweighs the benefits associated with the proposed development.

48. 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