



Appeal Decision

Site visit made on 21 June 2016

by **Philip Lewis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2016

Appeal Ref: APP/C2708/W/16/3144368

Land off A65, Kendal Road, Hellifield, Skipton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by CCM Auctions against the decision of Craven District Council.
 - The application Ref 42/2015/15870, dated 19 May 2015, was refused by notice dated 9 September 2015.
 - The development proposed is described as outline application for residential development.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development comprising of 21 dwellings including construction of a new vehicular access off A65 at land off A65, Kendal Road, Hellifield, Skipton in accordance with the terms of the application, Ref 42/2015/15870, dated 19 May 2015, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by CCM Auctions against Craven District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was made in outline, with all matters of detail reserved for future consideration except for access. Drawings showing site location, indicative site layout, indicative layout in context, site opportunities and constraints plan were submitted with the application and I have had regard to these in determining the appeal. Whilst Part E of the appeal form states that the description of development has not changed, the appellant has confirmed in its appeal statement that it had agreed with the Council a change to the following: 'residential development comprising of 21 dwellings including construction of a new vehicular access off A65'. The Council dealt with the application on the basis of this description and so have I. I have also taken the site address from the Council's decision notice as it is more detailed than that set out in the application.
 4. The Council, in its statement, sets out that, whilst at the time of its decision it was able to demonstrate a five year supply of deliverable housing sites, the position has since changed and consequently it does not wish to argue that the matter of housing land supply constitutes grounds for a refusal. Whilst interested persons have stated that the position in respect of housing supply may have changed again and there is no agreement between the parties as to
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the extent of any such short fall, no substantive evidence has been provided in this regard. I have written to the appellant and the Council inviting brief statements on the provision of affordable housing and sports and recreation provision in respect of the appeal proposal and have considered their responses in making my decision. I have framed the main issues for the appeal accordingly.

5. An interested party has suggested that I may use my powers to initiate a full or partial award of Costs against the appellant in respect of its appeal and its application for Costs. I consider that there is no evidence to substantiate unreasonable behaviour leading to unnecessary or wasted expense by the appellant and therefore I will not be exercising my powers in this case.

Main Issues

6. The main issues in this case are:
 - The effect of the proposed development on the intrinsic open character of the countryside; and
 - Whether planning conditions would secure adequate provision for any additional need for affordable housing and sports and recreation provision arising from the development.

Reasons

Intrinsic open character of the countryside

7. Saved Policy ENV1 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999 (Local Plan) seeks to protect the character and quality of the open countryside from being spoilt by sporadic development by defining development limits and sets out the circumstances when development will be permitted in the countryside. Saved Policy ENV1 is therefore concerned with the supply of housing. The National Planning Policy Framework (the Framework) in paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Consequently, whilst saved Policy ENV1 is part of the development plan and I note the statement by the Council that it broadly accords with the Framework, it should not be considered as being up-to-date in respect of the supply of housing given the fact that the Council has accepted that it cannot demonstrate a five year supply of deliverable housing sites.
8. The appeal proposal would occupy open land which is situated between commercial premises, a school and residential properties and I consider that these developed areas provide a sense of enclosure to the appeal site, rather than it having more affinity with the open agricultural land beyond. Whilst the proposed development would fill the existing open land between the developed area, I consider that it would constitute a logical rounding off of the settlement.
9. Although the proposed development would add to the existing urban form and be visible from the nearby public right of way, I do not consider that it would be visually prominent from the A682, nor constitute a visual intrusion. This is because it would fill the existing open land between the developed areas and

would be viewed in the context of the surrounding development. On the basis of the evidence before me, I do not consider that the appeal proposal would give rise to harm to the setting of the Yorkshire Dales National Park and note that the National Park Authority has not objected to the proposal.

10. The Council has stated that the proposal fails to accord with paragraph 64 of the Framework which sets out that permission should be refused for development of a poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Firstly, from the evidence, it has not been demonstrated that the proposed development would be harmful to the way in which the area functions. Secondly, as the application is in outline with all matters of detail reserved for future consideration except for access, any opportunities available for the design of the development improving the character and quality of an area remain for future consideration. Interested parties have stated that the proposed development would lead to pressure for the development of the remainder of the field, however this would be a matter for a future planning application. Concern has also been expressed regarding the effect of the proposal on trees, the effect upon adjacent land and the provision of the agricultural access to the remainder of the field, but these matters would be dealt with in subsequent reserved matters submissions should I be minded to allow the appeal.
11. Whilst the proposal does not accord with saved Local Plan Policy ENV1, given it is out of date I apply little weight to it and I conclude that the appeal proposal would give rise to minimal harm to the open intrinsic character of the countryside.

Affordable housing and sports and recreation provision

12. The main parties agree that the proposed development should trigger the need for the provision of affordable housing for which there is an identified need and also agree that the appeal proposal would provide a village green and make a financial contribution to upgrade existing sports and recreation facilities in the village. The appellant and Council consider that the matters of affordable housing and sports and recreation provision can be dealt with by way of planning conditions should I be so minded to allow the appeal and there is no dispute between them regarding the relevant conditions suggested by the Council.
13. The Planning Practice Guidance (PPG) in paragraph 010 sets out that a negatively worded planning condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. It also states that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.
14. In this case, however, the detailed requirements for affordable housing and sports and recreation provision arising from the development are yet to be determined. Additionally, the proposed conditions do not specifically require an obligation to be entered into and I have taken into consideration the evidence from the parties as to how such contributions are sought by the Council. Therefore, I consider that planning conditions would secure adequate provision for any additional need for affordable housing and sports and recreation

provision arising from the development and that the proposal would not conflict with the PPG in this regard.

Other matters

15. I have considered the comments regarding the proposed access to the appeal site and note that the Highway Authority has no objection subject to suggested conditions. I have also considered the comments in respect of flooding but note that the relevant statutory body has no objections to the proposal. Any issues regarding surface water would be addressed at the reserved matters stage and could be addressed by way of a condition should I be minded to allow the appeal. Similarly, I have not been presented with detailed evidence that the appeal scheme would be harmful to the ecology of the area, to tourism or that the site is contaminated.
16. Concerns have been expressed in respect of the relationship with the appeal site and nearby school, commercial buildings and dwellings. However, such matters would be for detailed consideration at the reserved matters stage. I have considered the objections made to the scheme and note the concern expressed and comments regarding the lack of community consultation undertaken, but have found the scheme to be acceptable. I have considered the comments regarding other housing developments in Hellifield and the availability of previously developed land. However, I have been provided with limited information in this regard.

Conditions

17. I have reviewed the conditions suggested by the Council against the Framework and PPG and have revised, simplified and combined some of those suggested in the interests of clarity and to accord with national policy and guidance. I have not applied conditions which seek to remove permitted development rights from the proposed dwellings in the absence of any clear justification for doing so. Given that design is a reserved matter, I have not specified conditions in respect of the external building materials for the dwellings or in respect of detailing.
18. The proposal seeks outline planning permission with all matters other than access reserved. Conditions relating to the submission of reserved matters are therefore necessary. I have also specified a condition in respect of the approved plan to provide certainty.
19. I have attached conditions in respect of the provision of affordable housing and sports and recreation facilities arising from the development which are benefits of the scheme to ensure their provision. In respect of highway safety, I have rationalised the conditions suggested due to the overlapping provisions and matters which would be unnecessary. I have specified conditions regarding, the provision of detailed drawings and programme of works, the details of the site access on to the A65 road and to ensure that the access is provided before wider construction takes place at the site. I have also applied a condition regarding the provision of access and parking at dwellings before they are first occupied and regarding the provision of a construction compound in the interests of highway safety.
20. I have specified a condition in respect of surface water drainage in order to prevent flooding and a condition in respect of sewage disposal in the interests

of preventing pollution. In order to safeguard the living conditions of nearby residents, I have included a condition in respect of the hours of construction.

Planning balance and conclusion

21. Although the proposal would be contrary to saved Local Plan Policy ENV1, this policy cannot be considered to be up-to-date and the proposal should be considered in the context of the presumption in favour of sustainable development as set out in paragraph 49 of the Framework. In paragraph 7, the Framework sets out three dimensions of sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform an economic, social and environmental role and in paragraph 8 the Framework sets out that these roles are mutually dependent and should not be undertaken in isolation.
22. The appeal proposal would bring economic benefit in terms of employment opportunities during construction and in the longer term help to maintain the viability of the settlement. In terms of the social dimension, the appeal scheme would provide housing including an element of affordable housing for which there is an identified need. I note the comments by interested persons regarding the scale of affordable housing which would be provided, but consider that this provision would be a benefit of the proposal which weighs in its favour. The appeal scheme would also make provision for sports and recreation. I have considered the comments by interested persons that Hellifield is not a sustainable settlement, but given the range of services and facilities in the village, I disagree.
23. In respect of the environmental dimension of sustainable development, the Framework in paragraph 9 indicates that the environmental role includes contributing to protecting and enhancing our natural, built and historic environment. Although the appeal proposal would extend development onto agricultural land, I have found that any harm which would arise to the intrinsic open character of the countryside would not be more than minimal.
24. In the overall planning balance I consider that the adverse impact of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole and the appeal proposal can be considered to constitute sustainable development. For the reasons given above, and having considered all matters raised, I consider that the appeal should be allowed.

Philip Lewis

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "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 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Plan.
 - 5) The details to be submitted to and approved in writing by the local planning authority as part of the reserved matters shall include details of proposed ground levels, proposed finished floor levels and building heights. Development shall be carried out in accordance with the approved details.
 - 6) No development shall commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no affordable housing provider is involved;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- OR:
- vi) details of an equivalent affordable housing contribution to be provided in lieu of affordable housing on site and the means by which such a contribution shall be provided.

The affordable housing shall be retained in accordance with the approved scheme.

- 7) No development shall commence until either:
- i) full details of public open space to serve the development have been submitted to and approved in writing by the local planning authority and agreement has been reached with the local planning authority as to the provision of the same and its subsequent management and maintenance;
- OR:
- ii) alternative arrangements for the provision of open space have been secured and approved in writing by the local planning authority.
- The open space shall thereafter be provided and maintained as approved.
- 8) The details to be submitted to and approved in writing by the local planning authority as part of the reserved matters shall include full details of both hard and soft landscape works and these works shall be carried out as approved. The details shall include a detailed scheme for the planting of trees and shrubs specifying types and species, a programme of planting and the timing of implementation of the scheme, including any earthworks required; details of hard landscaping materials, including the surfacing materials of any hard-standing, drives, footways, screen walls, fences and other means of enclosure. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until details of the site access have been submitted to and approved in writing by the local planning authority. These details shall include: the highway verge/footway crossing; the visibility splays, any gates or barriers; the gradient of that part of the accesses extending 4.5 metres into the site from the carriageway of the existing highway, the finished surface; measures to prevent surface water run-off onto the highway; the provision of tactile paving, measures to prevent the deposit of mud, grit and dirt onto the public highway and a timetable for the implementation and completion of the works. The development shall be carried out in accordance with the approved details.
- 10) No development shall commence until detailed drawings showing the proposed highway layout have been submitted and approved in writing by the local planning authority. The detailed drawings shall include dimensions of any carriageway, cycleway, footway and verges and visibility splays, existing and proposed site levels, accesses and driveways, street lighting, surface water disposal, traffic calming measures, all types of surfacing provision of any site compound, on-site parking and materials storage and details of the programme of works including any phasing of construction. Development shall be in accordance with the approved details.
- 11) No dwelling shall be occupied until that part of the service road which provides access to it shall have been constructed in accordance with the approved plans and any related parking facilities have been constructed. The service road as constructed shall be retained thereafter.
- 12) Prior to the commencement of development, full details of a surface water drainage scheme based on SuDS principles shall be submitted to and be approved in writing by the local planning authority. That scheme shall include interceptors demonstrating the management of overland flows within the site from off-site sources; details of any surcharging

volumes and flow rates and appropriate mitigation measures; and details of how the scheme shall be maintained and managed after completion. The development shall be in accordance with the approved details which shall be maintained thereafter.

- 13) No development shall take place before details of a scheme for the disposal of sewage including an implementation plan have been submitted to and approved in writing by the local planning authority. The development shall be in accordance with the approved details which shall be maintained thereafter.
- 14) Demolition or construction works shall take place only between the hours of 0730 and 1800 on Monday to Friday, 0730 and 1300 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

Richborough Estates