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## Appeal Decision

Site visit made on 9 October 2018

**by Elaine Worthington BA (Hons) MTP MUED MRTPI**

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

**Decision date: 7 November 2018**

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**Appeal Ref: APP/Y2736/W/18/3205468**

**Land to the east of Manor Farm, Main Street, Amotherby, Malton, YO17 6TG**

- 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 Mr David Hume against the decision of Ryedale District Council.
  - The application Ref 17/00645/MOUT, dated 26 May 2017, was refused by notice dated 20 December 2017.
  - The development proposed is an outline application for residential development of twenty new semi-detached houses with some matters reserved.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was made in outline with approval sought for access and landscaping. However, during the Council's consideration of the application details of the site layout were also provided and approval of that matter was also included in the scheme. I have dealt with the appeal on this basis.
3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaced the version published in 2012. None of the revisions to the Framework materially affect the issues in this appeal and the parties have been given the opportunity to comment on this matter. However, for clarity, references made to the Framework in this decision are to the 2018 version.

### Main Issues

4. The main issues in this case are:
  - Whether the proposal would provide a suitable site for development having regard to the development strategy for the area; and
  - The effect of the proposal on the character and appearance of the surrounding area; and
  - Whether the proposal would provide adequate living conditions for future occupiers with particular reference to noise; and
  - Whether or not the proposal would make adequate provision for affordable housing.

## Reasons

*Whether the proposal would provide a suitable site for development having regard to the development strategy for the area*

5. The appeal site is an open field. It is beyond the identified settlement limits for the village as set out in the Ryedale Local Plan Strategy (Local Plan) and therefore in the countryside in policy terms. Amotherby, along with nearby Swinton, is identified as a Service Village in the Local Plan. Policies SP1 and SP2 of the Local Plan set out the general distribution of development including housing during the plan period. Local Plan Policy SP2 states that in the wider open countryside (outside development limits) new housing is limited to that necessary to support the land-based economy, the conversion of redundant or disused traditional rural buildings, the change of use of tourist accommodation and replacement dwellings. It has not been put to me that the proposal meets any of these criteria.
6. Local Plan Policy SP2 also seeks the delivery of at least 3000 new homes from 2012 to 2027 and attributes 300 homes to Service Villages. In terms of the pattern and distribution of site allocations, these sites will be limited small-scale sites in or adjacent to current development limits with sites to be distributed as far as possible amongst all villages in the category. The Council explains that since there are 10 Service Villages this roughly equates to 30 dwellings per village.
7. The emerging Local Plan Sites Document (Emerging Local Plan) has been submitted for examination and seeks to complement the adopted Local Plan by providing specific policies and allocations. Examination hearings took place in September and October 2018. Whilst the appeal site has been considered as a potential housing allocation as part of that process (Site 635), the Council has chosen an alternative site to the west of the village (Site 148, also referred to as site SD10) which was included in the publication version of the Emerging Local Plan. That proposed allocation for around 40 units would fulfil the identified housing requirement for Amotherby.
8. The appellant advises that the appeal site has been promoted for five years as part of the Emerging Local Plan process but continually overlooked. I am aware of his concerns in relation to the site assessment methodology (and its findings in relation to the appeal site) and note his reference to paragraph 67 of the Framework. I also acknowledge his view that the appeal site should have been included in the Emerging Local Plan in preference to the alternative site promoted by the Council (which he argues would have a greater impact on the countryside and has not been demonstrated to be deliverable). The appellant considers the appeal site to be the preferred option for the majority of local residents and I note that it is supported by the Parish Council.
9. However, those matters are for the ongoing examination of the Emerging Local Plan. At the moment, the appeal site is not identified for development in that document and its approval for housing now would run contrary to the emerging site allocations for the village and the housing distribution envisaged. Whilst I am mindful of the outstanding objections to that approach and conscious that the Emerging Local Plan remains subject to examination, I see no reason to undermine that process at what is a relatively advanced stage of production and attribute that emerging plan moderate weight.

10. The appeal site is located adjacent to the built up area of Amotherby which the appellant regards to be a popular village close to Malton. It is close to existing services and facilities and a bus route connecting it to larger centres and relates well to the built up extent of the village. It is owned by a local builder and can be developed quickly. I also appreciate that the appellant has worked hard to find a solution following the withdrawal of a previous planning application and provided additional information to support the proposal subject of this appeal.
11. Nevertheless, Local Plan Policies SP1 and SP2 seek to direct new development and growth to the more sustainable locations in the District and to limit housing in the countryside. Due to its location in the open countryside, as things stand, the proposal runs contrary to the spatial strategy for the area set out in the adopted Local Plan. Nor does it accord with the currently envisaged allocations for the village in the Emerging Local Plan. Whilst this situation may change in the future, the Framework confirms that proposals must be determined in accordance with the development plan unless material considerations indicate otherwise.
12. I therefore conclude on this main issue that the proposal would fail to provide a suitable site for development having regard to the development strategy for the area. Thus it would be contrary to Local Plan Policies SP1 and SP2.

#### *Character and appearance*

13. The appeal site is located on the north side of the B1257 and adjoins a wider extent of open fields to the north. It is bounded to the west by Manor Farm and to the east by a crescent of houses in Eastfield. There are houses on the south side of the road opposite the site and Malton Foods is further to the east. There are mature trees and hedgerows on the site's boundaries.
14. The proposal would introduce 20 semi-detached houses to the site and lead to the creation of an access from the main road. It would relate closely to the existing development immediately to the east and west and to that on the other side of the road which is also within the built up extent of the village. It would not protrude northwards beyond Manor Farm or Eastfield and the appellant considers the proposal to be natural infill.
15. That said, the site adjoins open fields to the north and forms part of the wider countryside and a larger area of open space between Amotherby and adjacent Swinton. The proposal would close the gap between Manor Farm and Eastfield and in doing so would reduce the amount of open space that currently exists between the two settlements and alter the form of the village.
16. The appeal site is within the Howardian Hills Footslope area as identified in the Council's Landscape Character Assessment (LCA). The appellant's Landscape and Visual Impact Assessment (LVIA) accepts that the appeal site, together with its immediate surroundings, have characteristics recognisable in the LCA, particularly being gently sloping and set within an patchwork of farmland and small woodlands interlaced by hedgerows and forming part of a distinctive settlement pattern strung along the B1237. As such, the appellant acknowledges that the site has a moderate to high sensitivity to landscape impacts due to some parts of it exhibiting these key characteristics (together with its proximity to the Howardian Hills Area of Outstanding Natural Beauty).

17. The proposal would inevitably alter the character of the site which is used as a field for grazing. The existing trees and hedgerows and some elements of openness would be retained as part of the development and additional tree planting would be provided. Nevertheless, some of the recognised key landscape characteristics of the site would be lost. The LVIA finds that the magnitude of change to the landscape character would be medium.
18. In terms of visual impacts, despite the boundary planting and substantial trees and hedgerow to the site's frontage, there are intermittent views of it from the B1257 along its long frontage (particularly during the winter months). Uninterrupted views of the site are also possible down the access to adjacent Manor Farm. Thus, the site's existing openness is appreciated and also allows some views to the wider landscape of the Vale of Pickering beyond. The creation of the new access and removal of two of the frontage trees would increase its visibility.
19. This being so, the intrusion of built form that would arise from the appeal scheme would be seen from the main road. Although the site is well contained by existing mature trees and hedgerows (with additional planting proposed) and seen in some views in the context of Eastfield and Manor Farm, the introduction of houses would nevertheless detract from the open rural character of the site itself, interrupt longer distance views of the landscape beyond and undermine the character of the surrounding countryside.
20. I therefore conclude on this main issue that the proposal would be harmful to the character and appearance of the surrounding area. This would be contrary to Local Plan Policy SP13 which seeks to protect and enhance the quality, character and value of landscapes. It would conflict with Local Plan Policy SP16 which expects proposals to create high quality durable places that are well integrated with their surroundings and amongst other things reinforce local distinctiveness and requires development to respect the context provided by its surroundings. It would be at odds with Local Plan Policy SP20 which requires new development to respect the character and context of the immediate locality and the wider landscape. Furthermore it would fail to support paragraph 170 of the Framework which requires decisions to contribute to and enhance the natural and local environment.

#### *Living conditions*

21. The Council is concerned about excessive noise levels arising from traffic on the adjacent main road (including that associated with the nearby Malton Foods site). The appellant has submitted a Noise Assessment. Since this is based on only one monitoring position on the site's western boundary, the Council's Environmental Health Specialist considers that it fails to fully represent conditions on the whole site (particularly on the site frontage). Moreover, the results highlight the significant exceedance of recommended internal noise levels when the windows of the proposed houses are open. In response a Supplementary Noise Assessment has been provided with readings taken from a location on the eastern side of the site. However, despite the incorporation of greater noise attenuation measures, this indicates that the internal noise levels of the houses when windows are open would still exceed recommended levels. It is also based on the relocation of the houses further away from the road and down the bank, but no further details of this proposed amendment to the scheme are provided.

22. The appellant considers that the two Noise Assessments provide adequate information for an acceptable solution to address the Council's concerns. I appreciate that the mature tree planting to the road boundary would be retained and strengthened and that mitigation/attenuation measures including mechanical ventilation could be incorporated in the scheme. I also note the appellant's view that a solution could involve moving the houses and providing such measures as bunds, acoustic fencing and additional landscaping. However, I have seen no further details in relation to these matters or the anticipated effect they would have on the noise levels that would be likely to be experienced in the proposed houses. In the absence of any such information, I have no substantiated evidence to demonstrate that the proposal would provide satisfactory living conditions.
23. Whilst I note the Parish Council's view that excessive noise levels are not a problem and residents of the houses in the immediate vicinity of the site do not complain, that is not a reason to allow accommodation that would not safeguard the quality of life of the future occupiers of the dwellings.
24. I therefore conclude on this main issue that the proposal would fail to provide adequate living conditions for future occupiers with particular reference to noise. This would be contrary to Local Plan Policy SP20 which states that new development will not have a material adverse impact on the amenity (including impacts from noise) of present or future occupants. Developers will be expected to apply the highest standards outlined in the World Health Organisation British Standards and wider international and national standards relating to noise. It would also fail to support paragraph 127 of the Framework which requires decisions to ensure that developments create places which promote health and well-being with a high standard of amenity for existing and future users.

#### *Affordable Housing*

25. The officer's report indicates that the proposal includes the provision of seven affordable housing units on the site. Two would be intermediate (discount for sale) properties and five would be for rent. These are required to satisfy the requirements of Local Plan Policy SP3 which expects 35% of the scheme to be affordable homes. Local Plan Policy SP3 also states that affordable housing contributions will be secured through the use of legal agreements which will seek to ensure that that units provided are maintained in perpetuity for households in affordable housing need.
26. The National Planning Practice Guidance advises that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver certainty for all parties about what is being agreed. In order for affordable housing to be provided effectively, arrangements must be made to transfer it to an affordable housing provider, to ensure that appropriate occupancy criteria are defined and enforced and to ensure that it remains affordable.
27. In this instance, no planning obligation has been submitted. Other than to state that affordable housing would be provided (and so would be a benefit of the scheme) I have seen no further explanation as to the appellant's intended approach in this regard. It is not argued that the affordable housing sought by the Council is unnecessary, no circumstances to justify not providing it have been forwarded and no alternative methods to secure it have been advanced.

28. The Local Plan recognises that the lack of affordable housing is undoubtedly the main imbalance in Ryedale's housing market. Thus, in the absence of a planning obligation or any further information in relation to this matter, there are no material considerations to justify making a decision otherwise than in accordance with the adopted Local Plan.
29. I therefore conclude on this main issue that the proposal would fail to make adequate provision for affordable housing. As such, it would be contrary to Local Plan Policy SP3 and the aims of the Framework to provide affordable housing where a need for it is identified.

*Other matters and planning balance*

30. Paragraph 77 of the Framework states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Paragraph 78 advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. It also recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby.
31. The Council considers that it can demonstrate a five year supply of deliverable housing sites. The appellant disagrees, but provides no further explanation to support his stance. Notwithstanding this disagreement between the parties and the lack of information in this regard, irrespective of the five year supply situation, the proposal's contribution to housing land supply counts in its favour and accords with the government's objective of significantly boosting the supply of homes. I also accept that the proposal would support local services and enhance the vitality of rural communities. These are benefits of the scheme which count in its favour.
32. On the other hand, the proposal would fail to provide a suitable site for development having regard to the development strategy for the area, would be harmful to the character and appearance of the surrounding area, and would fail to provide adequate living conditions for future occupiers or to make adequate provision for affordable housing. It would conflict with the adopted development plan in all these regards and these matters count against the proposal. Whilst the Council raises no objections in terms of habitats and biodiversity, highway safety, drainage or flood risk, the absence of harm in these respects counts neither for nor against the scheme.
33. Taking all these matters into account, and even with paragraph 11 of the Framework and the presumption in favour of sustainable development in mind, I confirm that the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits.

**Conclusion**

34. For the reasons set out above, I conclude that the appeal should be dismissed.

*Elaine Worthington*

INSPECTOR