



Appeal Decision

Site visit made on 1 October 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2019

Appeal Ref: APP/Y2736/W/18/3200308

land to north of Ruffa Lane, land off Ruffa Lane, Pickering YO18 7HT

- 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 Toft Hill Ltd (c/o Walker & Sons (Hauliers) Ltd) against the decision of Ryedale District Council.
 - The application Ref 17/01500/MOUT, dated 5 December 2017, was refused by notice dated 19 March 2018.
 - The development proposed is outline planning application for residential development (up to 11 dwellings) with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, with the exception of access which is to be considered at this time. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the submitted plans as being illustrative.
3. Since the Council determined the application and the appeal made, a revised version of the National Planning Policy Framework (the Framework) has been published. The main parties have been invited to comment on the revisions where they may be relevant to this appeal, and I have considered those responses as part of my determination of the appeal. I have determined the appeal in light of the revised Framework.
4. Although reference has been made to the emerging Local Plan Sites Document (LPSD), I have not been advised of the current status of that document, or that it has since been adopted. The weight that I give it is therefore limited.
5. A unilateral undertaking under section 106 of the Town and Country Planning Act (1990) (as amended) (the Act) has been submitted with the appeal (hereafter referred to as the Undertaking). I shall return to this matter later.

Main Issues

6. The main issues are the effects of the proposed development on:
 - The character and appearance of the surrounding area;
 - Archaeology; and
 - Drainage.

Reasons

Character and appearance

7. The appeal site is a rectilinear site located immediately to the north of Ruffa Lane, at the north-eastern extent of Pickering. The Council describe the site as lying beyond the built extent of Pickering. From my observations of the site and its surroundings, I consider that to be a fair description of the site and its context.
8. The site lies on the northern side of Ruffa Lane. Although I saw that there was a mix of new and older housing partly opposite the site on the southern side of Ruffa Lane, the site stands somewhat apart from the prevailing form of development on both sides of the lane. The northern side of the lane is characterised by frontage development, accessed directly from Ruffa Lane, and of single plot depth. This gradually peters out travelling towards the site from the west, the last house on the north, opposite the junction with Whitfield Avenue, is separated from the appeal site by a field strip. On the southern side, although frontage housing continues for a short distance beyond the junction with Whitfield Avenue, it too gradually peters out despite the presence of the recently built two pairs of semi-detached dwellings.
9. By this point, I saw that Ruffa Lane had already gained a strong rural character, drawn largely from the field adjacent to the last property on the northern side of the lane and from the appeal site's existing hedgerow frontage. Beyond the houses on the south, and as it passes the appeal site, the lane becomes ever more rural in its character and appearance. The hedges and vegetation become more intimate to the lane and housing, such as it is beyond the recently built dwellings, becomes more sporadic and patchy. With just two dwellings before the meeting of Pluntrain Dale Lane with Ruffa Lane, and those set within spacious grounds with vegetation around their plot perimeters, there is a strongly rural, pastoral character to the surrounding area.
10. The appeal site contributes significantly to this, notwithstanding the dense hedgerow along its frontage that restricts more expansive views into and across the site. Glimpsed through gaps in the otherwise dense hedge and from the proposed entrance point at the southwestern corner of the site, the open, rolling, sloping nature of the site is felt and appreciated, if not directly visible from Ruffa Lane itself, as an intrinsic element of the surrounding countryside. In this respect, the character of the appeal site is closely and intrinsically linked to the surrounding open, rolling countryside, rather than to the built extent of Pickering to the south and west.
11. The development of the appeal site for housing, albeit for which the detailed layout and appearance is reserved for future consideration, would jar incongruously with the rural character of the appeal site and its immediate setting. Furthermore, the proposal would be viewed as a distinctly separate entity in the context of the prevailing form of development along the northern side of Ruffa Lane. With regard to the southern side, the gradual petering out, not just of the lane itself, but the more sporadic nature of the housing along it, typify the rural 'settlement-edge' nature and character of the surrounding area. Despite the site's relative physical proximity to housing on Ruffa Lane, the appeal site and the proposal would share little in terms of the character of the surrounding area.

12. The appellant's Landscape and Visual Review¹ (LVR) refers to the 'isolated nature' of the site which, in view of my considerations above, is an apt description of the site. The LVR concludes that visual impacts would be mostly felt at the localised scale, from Ruffa Lane, rather than from more distant viewpoints. Whilst the Council consider that in reaching this conclusion the LVR seeks to downplay the longer range visual impact of the proposal, it seems to me that it reinforces the Council's, and my, thoughts, that it is in the local context where the proposal would have its greatest impact.
13. Although submitted for indicative purposes, the 'proposed site layout plan and site section' drawing², suggests in graphic terms what is referred to in the LVR, namely the remodelling and re-profiling of the site's landform to accommodate the visual impact of the proposal. This would, it is further suggested, mitigate both localised and longer range visual impact.
14. In part, I am satisfied that this would be the case. The LVR demonstrates that in longer views from the south and southeast, across intervening land with buildings, field boundary hedges and trees, the proposal would have little impact on the wider understanding of the appeal site and its relationship with the built form of Pickering or the surrounding countryside.
15. However, at a localised level, such measures would merely highlight the unsuitability of the site. Those steps taken to minimise the visual impact of the proposal locally would fundamentally and harmfully alter the character of the site and its part in contributing to the rolling, pastoral setting to Pickering's north eastern fringe. Conversely, without such measures, the presence of the proposed dwellings would be both stark and imposing. In either assessment, the proposal would fail to relate well to the context in which it would be located, whether in terms of the built or natural environment.
16. In a similar manner, I am satisfied that in longer views from the north from Pluntrain Dale Lane the sunken nature of the track relative to the field hedge and field levels would mitigate the visual impact of the proposal. So too, the measures indicated in terms of cutting development into the rising land of the appeal site. However, the quantum of development would be such that on closer approach to the site from the north, and from the continuation of Ruffa Lane itself, it would appear incongruously intense when compared with the more sporadic and intermittent developed backdrop of Ruffa Lane opposite the appeal site.
17. Ryedale Local Plan (RLP) policies SP13, SP16 and SP20 together seek to ensure that proposals protect and enhance the quality, character and value of the District's landscapes and that proposals respect the context provided by their surroundings in terms of, amongst other things, location, siting and form. For the reasons that I have set out above, the proposal would fail in these respects and there would be conflict with these policies.

Archaeology

18. It is common ground between the parties that Pickering and the area around it is an area of archaeological interest. It is also common ground that archaeological investigation to-date, including geophysical investigation since

¹ Land North of Ruffa Lane, Pickering, Ryedale, North Yorkshire: Landscape and Visual Review – October 2017 (HL 115 17 00 00) Issue 3

² Drwg No: CAL040517 04 L

- the refusal of an earlier scheme³ that included that current appeal site, suggests that there are potentially significant archaeological findings within the appeal site area. It is also agreed that trial trenching would fully reveal the significance of any remains and explain more fully the findings of the geophysical survey work.
19. However, where the parties disagree is the point at which that work should be done; pre-determination or post-determination. Policy SP12 of the RLP is quite clear. The significance of archaeological features must be understood so as to allow consideration of either whether wholly exceptional circumstances can be demonstrated, or to consider the public benefits against any harm or extent of harm, to the asset.
 20. From the evidence, it appears to me that the area around Pickering has potential for archaeological interest. Although that interest appears to lie principally to the south of the settlement, the North Yorkshire County Council Heritage Unit nonetheless comment in their consultation response that there is a possibility that the geophysical survey's findings could represent very significant archaeological remains. In that context, the conclusions of the geophysical survey lead me towards the RLP policy SP12 approach that, without proper or detailed assessment – in this instance, trial trenching – the significance of these features cannot be fully understood. Nor therefore can any harm, or the extent of that harm, be fully or properly assessed or the public benefits weighed against that harm.
 21. An appeal case has been referred to me by the appellant⁴ where it appears that matters of archaeology were dealt with post-determination by way of condition. I am also reminded that the absence of trial trenching was not a reason for refusal in respect of the previous development scheme⁵, of which the current appeal site formed a small part of. I do not, however, have the full details of that proposal before me, particularly the archaeological and development plan context in which that proposal lay, and so cannot conclude that that approach and the circumstances surrounding it, provide a direct or compelling comparison to the current proposal. With regard to the previous scheme of which the current appeal site formed a small part, despite partially shared site areas, the quantum of development differs and I am advised that the current proposal also suggests a degree of excavation of ground levels specific to the current scheme. Thus, I cannot be certain that these cases provide a compelling comparison to the circumstances and factors present in the current instance.
 22. Whilst I do not disagree that such an approach may be appropriate in certain circumstances, I am not persuaded that those circumstances exist in this instance. The proposal fails to allow a full and detailed assessment of the archaeological significance of the findings of the geophysical survey. As such, the proposal also fails to establish a proportionate response to those findings, describe the significance of those findings or to understand the potential impact of the proposal upon their significance. For these reasons, I conclude that the proposal would fail to accord with RLP policy SP12 or with the overall aims of the Framework in seeking to conserve and enhance the historic environment.

³ LPA Ref No: 17/00894/MOUT

⁴ APP/C3810/A/14/2228260

⁵ LPA Ref No: 17/00894/MOUT

Drainage

23. RLP policy SP17 states that in order to manage flood risk, development proposals will be required to use sustainable drainage systems and techniques, where technically feasible, to promote ground water recharge and reduce flood risk. It is the appellant's stated intention to utilise infiltration, albeit with the proviso that ground conditions and groundwater circumstances may prevent such an approach. Should that be the case, I note that the appellant advises that through correspondence and discussion with Yorkshire Water, surface drainage would be possible through the public surface sewer.
24. But therein lies the rub. Without detailed percolation tests, the Council are concerned that it would be challenging to establish a conclusive position regarding a drainage strategy for the site. However, whilst the appellant's Flood Risk Assessment⁶ (FRA) expresses a note of caution in this respect, the totality of the evidence suggests that infiltration should be possible. Moreover, the appellant has also provided evidence to demonstrate that, should that not be the case, alternative methods for dealing with surface water drainage exist.
25. Whilst this remains a matter of disagreement, it seems to me that such matters could reasonably and proportionately be dealt with by the use of conditions, particularly given the outline nature of the proposal at this stage. Thus, I see no reason why the use of an appropriately worded condition making reference to the carrying out of percolation testing at an early stage, could not secure the desired level of certainty, clarity and detail that the Council desire. Subject to such an approach, there would be no conflict with RLP policy SP17 in this respect.

Other Matters

26. There is agreement between the parties that the Council can demonstrate a housing supply in excess of 5 years. The housing supply position does not therefore trigger the 'tilted balance' arising from paragraph 11(d) of the Framework. It is important to note, however, that the presence of a five year supply of housing is not a ceiling and the provision of general needs housing is nonetheless a significant material consideration in light of the Framework's support of the Government's objective of significantly boosting the supply of homes. This is a factor that weighs in support of the proposal. However, the boost to housing supply would be modest and would not be sufficient to outweigh the harm that I have identified above.

Unilateral Undertaking

27. A unilateral undertaking (the Undertaking) was submitted with the appeal. The undertaking commits the appellant to provide five dwelling units (45.45% of the total number of dwellings on site) as affordable dwellings, of which 4 units (80%) would be affordable rented units and 1 unit (20%) would be intermediate housing. Draft heads and terms for a planning obligation under section 106 of the Act were also submitted with the appeal, but these relate to the previous, larger, application of which the current appeal site was part.
28. The Undertaking would make provision for a level of affordable housing in excess of the quantum set out by RLP policy SP3. Whereas the Council confirm

⁶ Flood Risk Assessment v4: Ruffa Lane, Pickering YP18 7HT: Proposed Residential Development, Dec 2017 – Flood RiskUK

in their officer report that a level of affordable housing provision compliant with RLP policy SP3 would be acceptable, and go on to consider the possibility of any provision over and above that requirement in line with the appellant's stated intention, I do not give the Undertaking any greater weight than if it were just proposing a plan-compliant level of affordable housing provision.

29. Whilst the provision of affordable housing weighs in support of the proposal, I am not persuaded that the benefits arising from such provision would outweigh the harm that I have identified above.

Conclusion

30. I have found that the proposal would be relate poorly to the context in which it would be situated and would be harmful to the character and appearance of the area. The proposal would also fail to establish a proportionate response to the findings of the geophysical investigation and the significance thereof has not been properly or fully assessed. Although the proposal would provide a proportion of affordable housing and a boost to housing supply, albeit in the context of an agreed housing supply in excess of 5 years, both of which are factors which count in favour of the proposal, these have not been sufficient to outweigh the harm identified.
31. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR