

Appeal Decision

Site visit made on 2 February 2016

by **S R G Baird BA (Hons) MRTPI**

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

Decision date: 29 February 2016

Appeal Ref: APP/R4408/W/15/3134783

Land off Huthwaite Lane, near Thurgoland, Huthwaite, South Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Yorkshire Land Limited against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2014/1240, dated 17 October 2014, was refused by notice dated 30 July 2015.
 - The development proposed is the erection of 4 detached dwelling houses with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 detached dwelling houses with associated access, parking and landscaping on land off Huthwaite Lane, near Thurgoland, Huthwaite, South Yorkshire in accordance with the terms of the application, Ref 2014/1240, dated 17 October 2014, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Yorkshire Land Limited against Barnsley Metropolitan Borough Council is the subject of a separate Decision.

Main Issues

3. Whether, having regard to the provisions of the development plan¹ and the National Planning Policy Framework (Framework), the proposed development would constitute unsustainable development.

Reasons

4. The Core Strategy (CS) settlement hierarchy lists Huthwaite as a village and, as I understand it, the emerging Local Plan continues to list Huthwaite as a village. The CS indicates that within villages, development is likely to occur on small infill sites that are consistent with and sensitive to Green Belt policy.
5. The appeal site is located within the Green Belt, where the Framework says that inappropriate development should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate development except where it comprises limited infilling within villages². The site has a frontage to Huthwaite Lane, it is bounded on its eastern and western sides by residential development and is located within the built-up area of the

¹ Barnsley Local Development Framework – Core Strategy Adopted 2011 (CS).

² Framework paragraph 89 5th bullet point.

village. On these facts and given the scale of the development, I conclude, that this proposal would comprise limited infilling in a village and would not be inappropriate development. Accordingly, it is unnecessary to consider whether very special circumstances exist to justify the development.

6. The above conclusion is wholly consistent that of the planning officer contained in a report to the Planning Regulatory Board (PRB) and a conclusion the local planning authority (lpa) does not resile from in its appeal statement. The development would inevitably have some effect on the openness of the Green Belt. However, given that I have concluded that it would represent limited infilling in a village, the effect on openness would not be so significant that it would cause any material harm to the Green Belt.
7. Framework paragraph 6 says that the policies in paragraphs 18 to 219, taken as a whole constitute the Government's view on what sustainable development means for the planning system. Paragraph 7 identifies that there are 3 dimensions, to sustainable development; economic, social and environmental. Section 6 of the Framework deals with the delivery of housing. Key objectives that would contribute to the economic and social dimensions include boosting significantly the supply of market housing, delivering a wide choice of high quality homes and the creation of sustainable, inclusive and mixed communities. These objectives include planning for a mix of housing based on, amongst other things, the needs of different groups.
8. Lpa's are required to identify and update annually a supply of specific deliverable sites sufficient to provide 5-years worth of housing against their housing requirements. The appellant submits that there is not a 5-year supply of housing land, a statement which the lpa does not refute. Thus, the provision of 4 dwellings would make a small, but important contribution to the housing needs of this district.
9. This development would provide 4, high-specification 5-bedroom detached dwellings aimed at the executive end of the housing market. Various strategies of the Council identify that housing plays a key role in stimulating and supporting economic growth. The Economic Strategy³ (ES) acknowledges the need to deliver a step change in the quality and mix of housing available in the district. The ES goes on to identify that an inadequate supply of appropriate development sites and executive housing is an issue to be addressed. Similarly, the Housing Strategy 2014 to 2033 has as a key objective the need to increase the number of larger, 4/5-bedroom, family/higher value homes across the district. The 2014 SHMA⁴ refers to the need to provide for executive dwellings to support economic growth. Executive housing is identified as having a role in responding to the need for diversification and expansion of the sub-regional economy. The appellant's submission that the development would assist in achieving these objectives is not challenged by the lpa. Thus, the provision of 4 dwellings of the type and size proposed would make an important, albeit small, contribution to the delivery of a wide choice of high quality homes and meeting the needs of different groups in the community.
10. The Framework does not contain a definition of an inclusive and mixed community and clearly whether this objective is achieved is a matter of informed judgement. Here, the lpa appears to suggest that the contrast

³ Growing Barnsley's Economy 2012-2033.

⁴ Strategic Housing Market Assessment.

between the existing dwellings to the east and west with the scheme would lack integration thus creating an exclusive community. The implication of this approach is that the type development on the site should reflect the size and type housing around it. In my view what this approach would do is reinforce the nature of the existing community and restrict the creation of a mixed community in terms of family type and size. The introduction of 4, large detached houses into this setting would not conflict with the objective of encouraging inclusivity and would positively contribute to the creation of a mixed community consistent with the Framework.

11. The lpa's suggestion that Huthwaite, given its lack of services and limited access to public transport, is locationally unsustainable contradicts the identification of Huthwaite as a village in the CS and emerging Local Plan settlement hierarchy where some development is envisaged. Manual for Streets (MfS) published in 2007 highlights that walking offers the greatest potential to replace short car trips, particularly those under 2km. Thus, whilst within Huthwaite the availability of a wide range of services is lacking, there is within 2km a variety of facilities that could provide for the day to day needs of residents. Whilst the bus service to Huthwaite is limited, it appeared to me to run at times that would provide the opportunity to access employment and other services in Barnsley and Penistone by means other than the private car.
12. The lpa does not dispute that the proposed dwellings are of good quality or that there would be unacceptable effects on the living conditions of adjoining residents. I have no reason to disagree with those conclusions. In addition to retaining existing trees and hedging, the submitted scheme includes details of proposed landscaping that would strengthen the existing planting. In terms of visual impact, whilst the proposed layout, with the majority of the houses set back within the plot and the frontage house set at an angle to the road, would result in a change in the appearance of the area it would not unacceptably diminish the spacious character of the immediate area or appear obtrusive and incongruous in the immediate setting.
13. The environmental dimension includes moving to a low carbon economy. In terms of housing, this can be achieved through the minimisation of resource and energy consumption. Here, the appellant proposes to use low carbon energy generators such as solar panels, heat pumps, high standards of insulation and low energy lighting. The appellant also confirms that the homes would be constructed to achieve Level 3 of the Code for Sustainable Homes (CSH), which would be consistent with the requirements of CS Policy CSP 2. The CSH has now been superseded and elements of it have been incorporated into the Building Regulations and set to the equivalent of Code Level 4.
14. An ecological appraisal of the site has identified that the existing habitat value of the site is limited. Whilst I appreciate that the value of the site in ecological terms has been diminished by the actions of previous owners, this scheme is accompanied by proposals for the retention, creation and management of habitats, which would be a benefit. This is a matter that can be covered by way of a planning condition.
15. Access to the site would be from Huthwaite Lane which is an unmade road and in places in poor condition. Subject to the road frontage of the site being resurfaced, the highway authority has no objection to the scheme on highway

safety grounds and I have no reason to disagree with that conclusion. This is a matter that could be dealt with by way of a planning condition.

Conclusion

16. Drawing all these matters together, whether a development is sustainable is a matter that has to be viewed in the round looking at the development plan and the Framework as a whole and balancing harm against benefits. Thus, having regard to all the factors discussed above, I consider that the proposal would not conflict with the relevant policies of the development plan as a whole and Policies CSP 1, CSP 25 and CSP 29 in particular and having regard to the Framework as a whole would comprise sustainable development. In light of these conclusions and having taken all other matters raised into consideration, I conclude that this appeal should be allowed.

Conditions

17. I have imposed a condition specifying the relevant drawings as this provides certainty (2). In the interests of the appearance of the area and protecting the living conditions of existing and proposed residents, conditions relating to: finished levels (3), finishing materials (4), a construction method statement (6), landscaping, the protection of existing trees and boundary treatments (9), 10, 11 & 13), hours of construction (12), the treatment of potential ground contamination (14), controls relating to windows on Plot 3 (18), are all reasonable and necessary. In the interests of providing drainage and the prevention of flooding, a condition relating to foul and surface water drainage (8) is reasonable and necessary. In the interests of highway safety, conditions relating to: the provision of parking and manoeuvring areas (5), site gradients (7), the surfacing of Huthwaite Lane (16) and a restriction on the gating of the access (17) are reasonable and necessary. In the interests of ecology, I consider a condition relating to the implementation of ecological mitigation is reasonable and necessary. Where necessary and in the interests of precision and enforceability I have reworded the suggested conditions.
18. I have not imposed the suggested condition relating to the removal of permitted development rights. Planning Policy Guidance indicates that such a condition should only be used in exceptional circumstances. No such circumstances have been demonstrated here.

George Baird

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans:- Drawing Nos. YLHLBR1 Site Location Plan; 2014/10/01 Plot 1 Dwelling Details; 2014/10/02 Plot 2 Dwelling Details; 2014/10/03 Plot 3 Dwelling Details; 2014/10/04 Rev A Plot 4 Dwelling Details; 2014/10/05 Rev A Proposed Site Layout Drawings and Drawing R/1638/1A Landscape Details.
3. Prior to the commencement of development plans to show the finished floor levels of all buildings and structures; road levels; existing and finished ground levels shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until full details of the proposed external materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. The parking/manoeuvring facilities, shown on the submitted plans, shall be surfaced in a solid bound material (not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.
6. No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. the parking of vehicles of site operatives and visitors;
 2. means of access for construction traffic;
 3. loading and unloading of plant and materials;
 4. storage of plant and materials used in constructing the development;
 5. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 6. wheel washing facilities
 7. measures to control the emission of dust and dirt during construction;
 8. measures to control noise levels during construction.
7. Vehicular and pedestrian gradients within the site shall not exceed 1:12.
8. No development shall take place until:
 - (a) full foul and surface water drainage details, including a scheme to reduce surface water run-off by at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the local planning authority;
 - (b) porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;
 - (c) calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways.

Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented and the scheme shall be retained throughout the life of the development.

9. No development shall take place until there has been submitted to and approved in writing by the local planning authority, full details of hard landscaping works. The approved hard landscaping details shall be implemented prior to the occupation of the dwellings.
10. The soft landscaping works hereby approved shall be carried out strictly in accordance with FDA Landscaping Plan R/1638/1A as approved. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
11. Prior to the commencement of development or other operations being undertaken on site in connection with the development, (i) Tree Protective Barrier details; (ii) a Tree Protection Plan and (iii) a Arboricultural Method Statement prepared in accordance with BS5837 (Trees in Relation to Construction 2005: Recommendations) shall be submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved methodologies. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced off in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.
12. Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 08:00 to 18:00 hours Monday to Friday and 09:00 to 14:00 hours on Saturdays and at no time on Sundays or Bank Holidays.
13. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the position of any boundary treatment to be erected. The boundary treatment shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.
14. Prior to commencement of development an investigation and risk assessment to assess the nature and extent of any contamination on the site shall be submitted to and approved in writing by the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

The above must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Development shall be carried out in accordance with the approved report including any remedial options.

15. Prior to commencement of development full details of the mitigation measures identified in the Ecological Survey (revision C), including a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
16. No development shall commence until a detailed scheme for the resurfacing of Huthwaite Lane between Cote Lane and the application site including the full extent of the site frontage have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of any dwelling.
17. Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access off Huthwaite Lane.
18. All windows on the east facing elevation of the Plot 3 facing the existing dwellings Kinross and Fair View, Cote Lane shall be fitted with obscure glass and retained as such thereafter.