



Campaign to Protect Rural England
North Yorkshire Branch

21 January 2015

Appeal Reference: APP/E2734/W/15/3138946

1. Introduction

- 1.1. This written representation has been prepared by the North Yorkshire County Branch of the Campaign to Protect Rural England (NYCPRE) on behalf of the Harrogate District CPRE group (HDCPRE).
- 1.2. Evidence presented within this representation supports that which was submitted to Harrogate Borough Council (HBC) by HDCPRE via the formal consultation stage of the planning process (letter dated 11.1.2015) prior to the determination of the application on 29th September 2015.
- 1.3. NYCPRE submit that this appeal should be dismissed in line with the Officer recommendation set out in his report on 29th September 2015 and the Notice of Decision issued on 1st October 2015.

2. Reasons for Refusal

- 2.1. Gladman Developments Limited (the “Appellant”) have lodged an appeal against HBC for the refusal of an application for outline planning permission for the erection of up to 88 residential dwellings (including up to 40% affordable housing), 7 B1/B2 units totalling a maximum of 750m² GIA, car parking for the employment units, demolition of existing buildings, introduction of structural planting and landscaping, informal public open space, surface water flood mitigation and attenuation, vehicular access point from Crofter green and associated ancillary works. All matter to be reserved with the exception of the main street access at land at Nidd House Farm, Crofters Green, Killinghall, Harrogate, HG3 2DF.
- 2.2. The Planning Officer presented his report to the Planning Committee on 29th September 2015 with the recommendation to refuse the proposed development on landscape grounds.
- 2.3. The Committee resolved to refuse the application and the Notice of Decision was issued on 1st October 2015 in line with the Officer recommendation as set out below:

“The proposed development would cause significant harm to the form of the village and to the landscape character, which includes the Nidd Gorge Special Landscape Area and a number of public rights of way, by its manner of extending the built form of the village into open countryside and which will result in loss of character, amenity and/or recreational value of a number of those public rights of way contrary to policies SG4 and EQ2 of the Core Strategy, saved policies HD20, C2, C9 and R11 of the Harrogate District Local Plan and the terms of the National Planning Policy Framework.”

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- 2.4 The Planning officer, in his report to Committee, made it clear that aside from the principal of development, the points of access alone were to be considered at that stage - relating to vehicular access taken from Crofters Green. Little weight was required to be given to the indicative layout details, appearance, landscaping, layout and scale of the details submitted by the Appellant as these were to be all reserved for subsequent analysis subject to the outcome of the determination.

3. Application and Site History

- 3.1. The original planning application for the proposed development was submitted to HBC on 24th December 2014. The application sought permission for up to 91 residential dwellings and did not include provision for the employment units. HBC informed the Appellant that an Environmental Impact Assessment (EIA) would be required for the planning application due to the potential impacts as a result of cumulative residential development in Killinghall. However, the Appellant sought a Screening direction from the National Planning Casework Unit on 15th December 2014 who confirmed that it did not require EIA. The Council subsequently validated the application in January 2015.
- 3.2. The Appellant undertook a public consultation exercise prior to submission of the application. As a result of the statutory consultation period required through the planning process, 136 letters of objection/information were received by HBC from third parties prior to the determination of the application. Following the response from the Council's Economic Development Officer, the Appellant amended the description of the proposed development to reduce the number of dwellings to 88 and to include 7 B1/B2 units totalling a maximum of 750m² GIA and associated car parking areas. An updated suite of supporting information was submitted to HBC on 17th July 2015 for re-consultation (application ref: 14/05329/OUTMAJ).
- 3.3. The proposals provide for areas of structural landscape planting to the boundaries of the site, areas of informal and formal public open space and a sustainable urban drainage attenuation pond along the northern boundary of the site. Vehicles will access the site via Crofters Green.
- 3.4. The application was reported to and determined by the HBC Planning Committee on 29th September 2015. This appeal was subsequently lodged on 19th November 2015. The Appellant has confirmed that a 'second go' application will be submitted to HBC which will include an amended Development Framework Plan which relates to the same site as the appeal proposals. It is anticipated that the second go application will show a reduction in the scale of development and an increase in the amount of public open space and structural landscaping. The Appellant has requested that the Inspector takes into full consideration the details of the proposed Development Framework for the second go application in the determination of this appeal.
- 3.5. A retention change of use application (6.93.75.L.COU) from agricultural buildings B1/B8 was refused permission on 13.04.2001 and dismissed at an appeal on 27.02.2002 as having a "*harmful impact upon the character and appearance of the Nidd Gorge Special Landscape Area*". The Inspector also found that "*it would be likely to result in harm to highway safety and the free flow of traffic*".

4. Site and Surroundings

- 4.1. The site is located to the south east of the existing urban area of the village of Killinghall, to the east of Ripon Road. The site covers an approximate area of 4Hectares (Ha) and comprises a number of existing hardstanding, agricultural buildings, two agricultural fields (of Grade 3 classification) which have been divided to create a number of grazing paddocks and for horses and is bound by mature hedgerows and fences. A public right of way (PROW) runs in a south east direction from the end of Crofters green towards the Knox Lane ford through the site.
- 4.2 The site is located outside the village development limit within a Special Landscape Area (SLA) under the terms of the saved Harrogate District Local Plan.
3. The HBC Officer Report of the 29th September 2015 Planning Committee states on page 2 that 0.2Ha of the site is indicated as being occupied by the employment units, 0.95Ha being public open spaces and 0.09Ha an attenuation pond. The density of the housing development is between 23.2 dwellings per Ha including open space and the pond, 32 dwellings per Ha excluding these aspects.

2. Planning Context

1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application should be determined in accordance with the development plan unless material planning considerations indicate otherwise.
2. The Development Plan relevant to this application consists of:
 - The 2009 Harrogate District Core Strategy
 - Saved policies of the Harrogate District Local Plan (2001)
- 5.3 When determining the application, other ‘material considerations’ need to be taken into the planning balance. These considerations include other relevant policies and guidance particularly national planning policies provided by the National Planning Policy Framework (NPPF) and other relevant Government policy statements alongside the National Planning Practice Guidance (PPG).
4. The NPPF was published by the Department for Communities and Local Government (DCLG) in 2012 and set out the Government’s planning policies for England and how they are expected to be applied. The NPPF is a material consideration which should be used to aid the determination of this planning application. Achieving sustainable development is the primary aim of the NPPF. Paragraph 14 states that for decision making this means that proposals should be approved when in accordance with the development plan without delay, or where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - *“Any adverse impacts of doing so would significantly and demonstrably outweigh benefits, when assessed against the policies in this framework as a whole; or*
 - *Specific policies in this framework indicate development should be restricted.”*

5. The NPPF requires that housing applications are considered in the context of a presumption in favour of sustainable development and states at paragraph 49 that *“relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.”*
- 5.6 In March 2015, HBC published its Strategic Housing Market Assessment (SHMA) providing an up to date assessment of housing need throughout the Borough. An updated housing supply to reflect the SHMA requirement was published on 1st July 2015, indicating that there is a 5.1- year supply of housing land including a 20% buffer. Therefore, as the Council can demonstrate a 5- year supply of sites, the automatic application of paragraph 14 of the NPPF does not apply.
- 5.7 The site itself was considered by the Council having been put forward by the Appellant alongside land to the north-east totalling 7.69Ha through the Council’s call for sites during the process of producing the now withdrawn Draft Sites and Policies Development Plan Document (DPD) (site RL551). The site was not a draft allocation in the DPD as although it was considered to deliver some sustainable development objectives other factors were deemed to be detrimental to its allocation at that time.
- 5.8 The Planning Officer states on page 10-11 of his report to the Planning Committee (29th September 2015) that the *“application site is considered in principal to be in a sustainable location adjoining the edge of the village of Killinghall where there is a presumption in favour of the grant of permission under the NPPF. Whether it is actually suitable for development rests on the assessments of the key issues and whether any harm that arises is so significant as to justify a refusal for permission.”*
- 5.9 The access to the site is via a very narrow road which currently provides access to several dwellings, 12 of those constructed on the farm are known as ‘Crofters Green’. The information submitted alongside the application included an indicative access route through the site which was the same as that considered by the DPD process for site RL551. It was considered at that time that the access would be a development constraint.
- 5.10 The Council are of the opinion that Crofters Green is the most suitable existing access point for the proposal. An existing access south of the village edge and to the south of that proposed by the Appellant would not be supported by HBC as it is detached from the village and would likely result in pressure to allow development in the adjoin field.
- 5.11 NYCPRE are of the opinion that due to the fact that the proposed access leads onto a busy main junction, cars entering and egressing the site will cause significant tailbacks. Members have already commented that the existing traffic levels on this road is high with 30minute queues often being experienced in rush hour. Therefore, NYCPRE believe this appeal should be dismissed on the basis that the addition of a further circa200 vehicles requiring access on a daily basis to and from the site will make this route even more hazardous than existing. This would be in line with the Inspectors report on the 2002 appeal.

- 5.12 Paragraph 17 of the NPPF sets out the Government's 12 Core Principles which should underpin the planning process including that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is supported by the saved Local Plan policy HD20 which states that *"New development should respect the privacy and amenity of nearby residents and occupiers of adjacent buildings."* Also Policy SG4 of the Core Strategy which advises that *"all development proposals in the district should preserve and where possible enhance residential amenity."*
- 5.13 The appeal includes 7 B1/B2 units. NYCPRE are concerned that the impact of this element of the appeal will have a significant impact upon the residential amenity of those living in close proximity to the site and those future occupiers of the remaining part of the application site. A B1 use is restricted to those which can be carried out in a residential area without harm to those areas, however, a B2 use covers 'Any Industrial Use' - i.e. those uses which cannot be carried out within a residential area without harm to some extent. The Appellant states that the existing uses of the farm buildings include B2, however, given the wide range of uses allowable under the B2 classification, NYCPRE are concerned that this could impact on the amenity of existing and future occupiers contrary to both national and local policies and therefore believe this appeal should be dismissed. This would be in accordance with the September 2014 High Court Decision (*Stone v Staffordshire*) where the Judge quashed an appeal albeit on different grounds, however, noted that there would be an unacceptable degree of harm to residents of the cul-de-sac which served 5 existing dwellings who had front facing main bedrooms and front living rooms situated approximately 5 metres from the highway. Crofters Green serves 12 dwellings in addition to the existing farmstead, 8 of which are accessed by their own cul-de-sac set off the main access to the farmstead. However, of the 4 remaining, due to their orientation are located within close proximity to the highway proposed to access the site.
- 5.14 The application was refused on the basis that it would cause significant harm to the form of the village and to the landscape character including the Nidd Gorge Special Landscape Area by extending the village into the open countryside.
- 5.15 The NPPF emphasises in paragraph 9 that sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, and goes on at paragraph 17 to set out as a core principle that the planning system should *"take account of the different role and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."* Paragraph 109 supports this principle further stating that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 5.16 It was considered by HBC that the proposed development opportunity (RL551) put forward by the Appellant when producing the draft DPD, would have an adverse impact on the landscape character and quality. Measures to mitigate environmental harm from the development of the site were unlikely to be achieved and that harm was considered to outweigh the need for housing in the

settlement. NYCPRE are aware of the reasons why the DPD has now been withdrawn, however, are of the opinion that the reason for not including this site at the time are still relevant when considering this appeal.

- 5.17 The HBC Local Plan (2001) illustrates the area designated as the Nidd Gorge Special Landscape Area (SLA) within which this site is located. The SLA is subject to saved Policy C9. In addition, Policy C2 aims to protect landscape character alongside Policies SG4 and EQ2 of the Core Strategy.
- 5.18 The Harrogate District Landscape Character Assessment (2004) shows that the site is located within Area 24 Lower Nidderdale Valley north west of Harrogate describing the area as an *‘important gateway for both Harrogate and Nidderdale in which villages tend to be compact but have expanded due to development pressure.’* Killinghall is described as a main settlement *‘that would be much more widely appreciated, if not for its traffic congestion’*. The document goes on to state that *“the area has a limited ability to accept change without causing harm to its character, especially where development would be visible”*.
- 5.19 NYCPRE concurs with the Planning Officer in his description of Killinghall within his report to Planning Committee (on 29th September 2015) which states that the landscape around Killinghall is characterised by scattered buildings and isolated farmsteads and has limited capacity to accept additional built development without detriment to the landscape character. Low-laying hedges with trees surround the site which forms a prominent open relationship with the surrounding countryside due to the conspicuous location that it occupies at the edge of the linear village.
- 5.20 The Guidelines set out in the Harrogate District Landscape Character Assessment provide a baseline for consideration in the planning balance when determining planning applications that may impact upon landscape character. These include the following:
- Aim to retain landscape pattern and rural character between settlements.
 - Reserve traditional field boundaries and encourage the restoration and management of hedges and walls.
 - Additional individual buildings between settlements will impact on the rural character.
 - Aim to conserve archaeological and historic features
 - Protect early enclosure boundaries and promote research.
 - Identify key archaeological features and their setting.
- 5.21 Based on these, NYCPRE submit that the fields associated with the site of this development proposal are early enclosures and should therefore be retained and preserved. Furthermore, if additional individual buildings between settlements would impact on the rural character or the countryside, NYCPRE would argue that up to 88 dwellings would have a significant impact upon the rural landscape character especially as the site forms part of the high valley side that stretches from Killinghall down to the River Nidd and the new development would extend to the rear of the settlement and be highly prominent in the valley side. NYCPRE therefore believe that the appeal should be dismissed.

5.22 The PROW which crosses the site towards Knox is joined by another in the vicinity of Spruisty Hill Farm that runs from Nidd Bridge to the north. Further away from the site there are views from Knox Hill and the Harrogate Ringway PROW to the south and the Nidderdale Greenway to the north east. All of these afford views of the site to differing degrees dependent upon vegetation. The Planning Officer's report to the Planning Committee on 29th September 2015 states that the "*upper floors and roof-scape of any development on the site the subject of the application are likely to be visible in the landscape.*" The Appellants Landscape and Visual Impact Assessment states that the views would suffer medium or large/ major scale adverse effects as a result of the proposal while within 2km significant visual effects are more likely. NYCPRE therefore contend that this appeal should be dismissed as it is contrary to saved Local Plan Policy R11 which seeks to protect the qualities of PROWs within the District.

5.23 NYCPRE are also concerned about the loss of more valuable farmland. NYCPRE are of the opinion that development should be directed towards brownfield land before considering greenfield sites in line with the NPPF and PPG.

6. Conclusion

6.1. This written representation supports the consultation response previously submitted by the Harrogate District CPRE group to the planning application which is the subject of this appeal.

6.2. The proposed development is not appropriate in this location due to the fact:

- It is outside the development limits of Killinghall and therefore within the open countryside;
- The proposed development is located on a greenfield site;
- The development proposals would add to the unacceptable loss of best and most versatile agricultural land within North Yorkshire;
- Will cause significant harm to the special landscape character of the area which is designated at a Special Landscape Area;
- The proposals will detrimentally impact upon both the current and future occupants of residents living in close proximity to the site;
- The development will cause significant adverse effects to the PROW network in the vicinity; and
- The proposed access to the site will add to the already significant traffic congestion experienced in the area.

- 6.3 The North Yorkshire Branch of the Campaign to Protect England are therefore of the firm opinion that this appeal should be dismissed in line with the reasons for refusal issued on the HBC Notice of Decision on 1st October 2015. This outcome would also be in accordance with previous appeal decisions on the site.

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