



North Yorkshire

Campaign to Protect Rural England

Object

Date of submission: 27th March 2018 Number of pages in this correspondence: 5

Planning Application details:

17/04318/OUTMAJ - Outline Application for up to 50 dwellings with access considered (revised scheme).

At land at comprising field at 438887 468593 Church Lane, Kirby Hill, North Yorkshire

The North Yorkshire Branch of the Campaign to Protect Rural England CIO
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Branch code: 2018Mar HBC 50houses(revised) KirbyHill

All CPRENY CIO comments are prepared by the Branch with professional planning advice, research conducted and recommendations by qualified planning consultants.
Name of external planning consultation in relation to this comment:



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Introduction

The North Yorkshire Branch of the Campaign to Protect Rural England CIO (referred to in this document as “CPRENorthYorkshire” or “the branch”) welcomes the opportunity to comment on the revised scheme, submitted to the Council, for this site. All correspondence should be directed to the Chair of the Branch.

It is noted that this is an outline application, therefore CPRENorthYorkshire will limit their response to the principle of development at this location and reserves the right to comment further at the appropriate time, should this application be approved.

Planning Context

CPRENorthYorkshire provided the Council with a detailed comment in November 2017 on the previous scheme proposed by the applicant for up to 87 dwellings on this site adjacent to Church Lane, Kirby Hill. At that time, CPRENorthYorkshire objected to the principle of the large development at this rural location.

It is acknowledged that the applicant has sought to respond to the Council’s concerns regarding a detrimental impact on landscape at this location by reducing the scheme from 87 dwellings to ‘up to 50 dwellings’ through this revised scheme. However, this does not lessen CPRENorthYorkshire’s objection to this proposal and this response endorses those comments made previously.

It is considered that 50 new houses at this location is not appropriate development for an open countryside location outside of the development limit for the settlement.

This representation does not seek to duplicate those comments previously made to the Council (as it is considered that those comments are still valid), however, it will seek to address the issue of Housing Land Supply and the weight to be attached to it in the planning balance for the purposes of determining this application.

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.

The Development Plan relevant to this application consists of:

- The 2009 Harrogate District Core Strategy; and
- Saved policies of the Harrogate District Local Plan (2001).

When determining the application, other ‘material considerations’ need to be taken into account. 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).

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.”*

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.”*

The Council's Housing Land Supply Update (January 2018) confirms that; *“the district has a deliverable supply of 4.5 years”* (at 31 December 2017).

The Planning Statement prepared by the Applicant's Consultants (AAH Planning Consultants) sets out at their paragraph 5.5 that due to this fact, the balance in favour of sustainable development is triggered and this should be considered a 'paragraph 14' application as confirmed by the recent Supreme Court judgement in the cases of *Suffolk Coastal District Council v Hopkins Homes Ltd* and *Richborough Estate Partnership LLP v Cheshire East Borough Council* 2017).

However, the Applicant's Planning Statement did not go further to set out that the recent Judgement also makes it clear that just because a Local Planning Authority does not have a demonstrable five-year supply and housing policies are not considered to be 'up-to-date' does *not* mean that restrictive policies are too (*my emphasis*). The weight to be given to a restrictive policy (or any other policy) was stated to be *‘a question of planning judgement’*.

Therefore, CPRENorthYorkshire believes the fact that this site is currently within the 'open countryside' should be given *considerable weight* in the planning balance when determining this application alongside other restrictive policies.

The Council are in the process of preparing a new Local Plan. This has recently been through its statutory Regulation 19 (Publication version) consultation and is the version that the Council hope (subject to minor amendments) to submit to the Secretary of State for independent examination. The NPPF states (at paragraph 216) that *“decision-takers may also give weight to relevant policies in emerging plans according to:*

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *The degree of consistency of the relevant policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

Given the late stage in the plan-making process due weight can be afforded to the policies of the emerging Local Plan alongside those policies of the existing development plan and material considerations in the determination of this application.

Whilst it has to be acknowledged that the Council does not have a current 5-year housing land supply, (which must also be given due consideration in the planning balance), the evidence base for the emerging Local Plan highlights that by the time the Council reaches the 'adoption' stage of the plan-making process (1st April 2019), they will be able to demonstrate a 9.7 year housing land supply (Housing Background Paper, Jan 2018). Therefore, the fact that the Council are actively addressing the current undersupply and are somewhat towards delivering this should be weighed heavily in the planning balance when determining this application.

Through the emerging Local Plan for the Harrogate District, the Council chose not to allocate this site for development, preferring to retain the current development limit for the settlement as defined in the existing Local Plan at this location. Policy GS3 of the emerging Local Plan deals with Development Limits. It sets out that proposals for new development on sites outside the development limits of a settlement will be supported where it is consistent with the role of the settlement in the growth hierarchy set out in Policy GS2 and does not result in a disproportionate level of development compared to the existing settlement and meets a number of criteria, including that there is no suitable or available land for the proposed use within the settlement or a site allocated under policies DM1; would not have an adverse impact on the character and appearance of the countryside or heritage assets (amongst others). The proposals are therefore, contrary to this policy as there is a housing commitment shown as an allocation within the development limits of this settlement. Impacts on landscape and heritage assets were commented on in the previous representation by CPRENorthYorkshire and are endorsed further by this representation.

Emerging Policy DM1 describes Kirby Hill as a 'Secondary Service Village'. The textual justification for this policy, sets out at paragraph 3.20 that these villages offer residents "*basic services and facilities*". CPRENorthYorkshire believes that development at the proposed scale at this location would be inappropriate due to the potential increased pressure on these basic services which could render them unsustainable. With this in mind, CPRENorthYorkshire further supports the objection from the Parish Council to this application.

Conclusion

CPRENorthYorkshire maintain their objection to the principle of development at Kirby Hill, for the reasons set out above and linked to those set out in their response to the previous proposal in November 2017.

It is recognised that Harrogate Borough Council cannot currently demonstrate an up to date 5-year housing land supply, therefore, the titled balance is triggered, and this becomes a Paragraph 14 application. This must be weighed accordingly in the planning balance when determining this application.

It is also acknowledged that the very fact that this is a Paragraph 14 application does not render all planning policies out of date as the weight to be attached to the restrictive policies of the development plan are a matter of judgement for the decision maker as explained above. The fact that the Council are actively seeking to address their current lack of supply and purport that they will be able to demonstrate a 9.7-year supply on adoption of the emerging Local Plan (by 1st April 2019) should also be weighed heavily in the planning balance as it appears this site is not required to meet the current undersupply.

CPRENorthYorkshire consider that a significant and demonstrable harm would occur to the landscape and setting of this location should this proposal be approved which would outweigh the benefits of providing additional dwellings, this is supported by the significant number of objections received previously to the proposed development on this site which detailed the detrimental impacts this would have on many facets of the village and community life. This is also supported by the fact that the Council chose not to allocate this site in their emerging Local Plan but preferred to maintain the development limits of the existing Local Plan to the northern boundary of the settlement.

It is therefore respectfully asked that the application be refused.

CPRENorthYorkshire reserves the right to comment further at the appropriate time should this outline application receive planning permission.

