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# Appeal Decision

Site visit made on 11 September 2013

**by Isobel McCretton BA(Hons) MRTPI**

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

**Decision date: 3 December 2013**

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**Appeal Ref: APP/Y2736/A/13/2197184**

**Land to rear of Station Road, Ampleforth**

- 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 Mr Paul Butler (David Wilson Homes Yorkshire (East) Division) against the decision of Ryedale District Council.
  - The application Ref. 12/00618/MFUL, dated 27 June 2012, was refused by notice dated 11 April 2013.
  - The development proposed is 30 residential dwellings with associated infrastructure.
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**This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 13 November 2013**

## Procedural Matters

1. On 5 September 2013, shortly before the site visit, the Council adopted The Ryedale Plan - Local Plan Strategy Development Plan Document (LPS). The main parties were given the opportunity to make representations about this document, but no further comments were received. I have taken the policies of the LPSDPD into account in coming to my decision.
2. The appellants submitted a S106 Obligation with the appeal. This sets out the arrangements for the provision of affordable housing on and off the site along with financial contributions towards a bus shelter, pedestrian crossing and towards off-site public open space. I return to these matters below, but I am satisfied that the provisions in the submitted document accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the National Planning Policy Framework (the Framework).

## Decision

3. The appeal is allowed and planning permission is granted for 30 residential dwellings with associated infrastructure on land to the rear of Station Road, Ampleforth in accordance with the terms of the application, Ref. 12/00618/MFUL, dated 27 June 2012, subject to the conditions set out in the Schedule attached to this decision.

## Main Issue

4. The main issue is the effect of the proposed development on the character and setting of Ampleforth and on the natural beauty of the Howardian Hills Area of

Outstanding Natural Beauty (AONB), having regard to national and development plan policies for the delivery of housing.

### **Reasons**

5. The appeal site, of just over 1ha of agricultural land, lies on the south eastern side of Ampleforth to the rear of the properties in Station Road. It is proposed to erect 30 dwellings, a mix of detached (11), semi-detached (8) and terraced (11) houses. Access would be taken from Station Road between two dwellings, Littlemore and Ashgarth, and the development would extend from the rear the houses in St Hilda's Walk to the rear of the electricity substation to the south of Ryecroft. Ten of the new dwellings would be affordable housing units.

### *Landscape/AONB*

6. The site abuts, but is outside, the existing built-up area as defined in the adopted Rydale Local Plan (2002). It is therefore in the countryside where development is restrained. Paragraph 115 of the National Planning Policy Framework (2012) (the Framework) states that great weight should be given to conserving landscape and scenery in National Parks, the Broads and AONBs which have the highest status of protection in relation to landscape and scenic beauty. The effect on the landscape is therefore an important material consideration.
7. The historic linear core of the village, characterised by traditional stone-built cottages and houses, runs east-west along Main Street on the northern side of Ampleforth along the boundary with the North York Moors National Park. To the south, including along St Hilda's Walk and Station Road, the dwellings are more modern and suburban in nature with a mix of bungalows and houses. There is also a school and a churchyard on Station Road. These two distinct areas of the village are recognised in that it is only the older, historic part of the village which has been designated as a Conservation Area. The site is alongside the more modern southern part of the village, outside the Conservation Area
8. The linear layout of the proposed development would be consistent with the grain of development in much of the village. I consider that the design of the houses, amended after discussions with the Council, would reflect the key characteristics of the vernacular architecture of the older properties in terms of matters such as scale, massing (simple terraces and double fronted houses), elevations and fenestration details. Indeed, the Council's single reason for refusal takes no issue with the intrinsic design of the development.
9. The land rises from south to north, being steeper in the approach to Main Street. The site is at a lower level than the historic part of the village and I consider that the scheme would sit comfortably alongside the existing development. The boundaries of the development would be softened by a landscaping buffer along the eastern and western sides. Two trees on the Station Road frontage would be lost to facilitate access, but these are not high quality specimens. Within the main body of the site trees and hedgerows would be retained and supplemented by additional planting and there would be the potential, through landscaping, to increase trees and shrubbery.
10. Although it would be seen in views out of the Conservation Area and the village from the churchyard and St Hilda's Walk, the site would not be a dominant feature, being viewed in the context of other houses and, for the most part,

with only the roofscape visible because of the topography. Existing views out of the Conservation Area are not devoid of buildings and views of the site would be mitigated in part by additional planting. In long distance views, such as from Yearsley Moor, it would appear as part of the existing settlement, being closely related to existing development in the village which would frame it on two sides, rather than being a marked incursion into the countryside.

11. The Landscape Statement<sup>1</sup> submitted by the appellants assessed the landscape impact of the scheme in the short term, just after completion, and in the longer term (15 years post completion). It found that the likely magnitude of change to the northern part of the village would be negligible and that to the southern half low, both resulting in an adverse effect of minor significance. The use of roofing materials reflecting those of the wider settlement and the introduction of more native planting to soften the boundaries of the development would also reduce the impact on the landscape. The assessment concluded that the overall adverse effect on the landscape would be of minor significance in the short term, reducing to an adverse effect of negligible significance in the long term.
12. The detailed visual appraisal, assessing the site from a number of viewpoints both within and outside the village, concluded that there would not be significant visual effects because of the close relationship between the site and the existing settlement. Where views exist towards the site it would be seen in the immediate context of the established built form of the village.
13. The Parish Council expressed concern that the development would be 'situated on a hill and will be very prominent' and that it would 'have a massive impact on the Howardian Hills AONB'. Some local residents made similar objections. However there is no substantiated evidence before me, based on a comparable systematic appraisal to that of the Landscape Statement or with reference to published landscape character guidance, which contradicts its conclusions. The findings of the Landscape Statement accord with those of the North Yorkshire County Council's Landscape Officer who came to the view that the proposed development of the site would not have any lasting impact on the wider landscape setting of the AONB or the National Park as views into the site are quite limited from within the valley and becoming quite distant in views such as from Yearsley Moor. Overall I am satisfied that the natural beauty of the AONB would be conserved and that the character and landscape setting of Ampleforth within the AONB would not be compromised.

### *Housing Delivery*

14. The Framework seeks to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development (the 'golden thread' which runs through the whole document). Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable sites.
15. In terms of future development requirements, the LPS designates Ampleforth as one of ten Local Service Centres (Service Villages) as a tertiary focus for growth. It is proposed that 300 houses will be distributed between the service

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<sup>1</sup> Based on the guidance set out in the 'Guidelines for Landscape and Visual Assessment (GLVIA)' published by the Landscape Institute and the Institute of Environmental Management and Assessment (2013)

villages. There is no differentiation as to whether the villages are in, or outside, the AONB or any indication that there will be phasing of such development throughout the Plan period: policy SP2 indicates that, as far as possible, sites are to be distributed amongst all villages in the category. This gives a theoretical limit of 30 dwellings for each.

16. From the information before me it seems that the Council cannot, at present, demonstrate a five-year supply of housing land. This was confirmed in the committee report when the application was considered by Members in February 2013. A more recent paper in May 2013 in connection with the Local Plan examination identified 4.85 years supply. The appellants argue that this did not take into account previous under delivery and calls into question whether, to accord with the paragraph 47 of the Framework, an additional 20% needs to be identified. I do not have sufficient information before me about sites which have been identified to reach a firm conclusion in this respect but, for the purposes of this appeal, I am satisfied that there is currently less than 5 years supply so that the presumption in favour of sustainable development set out in the Framework applies unless the adverse effects of approving the scheme would significantly and demonstrably outweigh the benefits (paragraph 14).
17. The site is in a sustainable location adjoining the existing settlement boundary and has been considered as part of the site selection process to inform the Site Allocations DPD. Nonetheless, the Site Allocations DPD is not likely to be published until some time in 2014. The appellants' Landscape Statement examined all the sites which have been put forward in Ampleforth. It concluded that the appeal site was the most appropriate location to meet the housing need identified in the emerging LPS and the local housing needs survey. The other sites all raised more serious issues with regard to the effect on the landscape, setting of the village, views into and out of the Conservation Area and development constraints of the site itself. I note that the AONB Manager agreed with this assessment, and that the Officer's report noted that, of known sites for potential development in Ampleforth, the appeal site was considered to be the least visually intrusive.
18. I realise that the result of a parish poll was that the majority of those who voted were of the view that sites for new housing in the village should not consist of more than four houses. However, while the views of local people must be taken into account, I cannot give this significant weight. The appellants point out that the turnout for the poll was quite low. There is no indication as to any sound planning basis for this limit on future development. Moreover it would prejudice the delivery of affordable housing as this is sought where development comprises five houses or more.
19. Some objectors have argued that as the site comprises more than ten houses it would be an estate scale scheme which constitutes major development. As such it would be contrary to LSP policy SP2 which envisages small-scale development in or adjacent to current development limits and para 116 of the Framework which seeks to prevent major development in designated areas such as AONBs other than in exceptional circumstances and the public interest. The Framework does not define major development. This definition of ten houses being major development comes from the Town and Country Planning (Development Management Procedure) (England) Order 2010 and is used for determining which applications required a Design and Access Statement, the publicity which should be given to the proposal and the statutory period within

which the application should be determined. I do not consider that it is a definition intended to be applied in all planning situations and this has been confirmed in case law<sup>2</sup>.

20. In my opinion this development of 30 houses in the context of the existing village development does not constitute major development for the purposes of paragraph 116 of the Framework. This view is shared by the appellants and the Council: the application was not refused on the basis of conflict with paragraph 116.
21. I conclude that the lack of a five year housing land supply and the presumption in favour of sustainable development in the Framework are material considerations of significant weight in this case.

### **Other Matters**

#### *S106 Obligation*

22. The shortfall in housing delivery within the District has also resulted in an under provision of affordable housing to meet an identified need within the Borough. It is estimated that around 9 units per annum are needed in Ampleforth over a five year period. The S106 Obligation would secure 40% of the dwellings as affordable housing, 10 on site and a commuted sum for off-site provision of another 2 units. This is above the 35% normally sought by the Council through policy SP3 and, in contributing to the Borough's provision, weighs in favour of the scheme.
23. Objections have been raised about the impact of the proposed development on the local road network and road safety. The Highways Authority has not objected to the proposal and there is no substantiated evidence which shows a capacity issue on the surrounding roads. The S106 Obligation would secure a footpath along the eastern side of Station Road to St Hilda's Walk and a pedestrian crossing close to the primary school. There would also be improvements to a nearby bus stop.
24. The final matter in the Obligation is a £75,000 financial contribution in lieu of on-site provision of public open space. This would provide for improved children's, youth and adult recreation facilities in the parish. Given that the accommodation will be family housing I consider that such a contribution necessary to meet the additional need for public open space arising from the development.

#### *Ecology*

25. An Ecological Appraisal was submitted with the planning application. This found that, because of the species poor habitat, the proposed development would present minimal risk of significant impact on important, protected or designated sites, or on legally protected or otherwise valued species. It advised that clearance of trees and scrub should be undertaken outside the bird breeding season and be preceded by a nesting bird survey, that the boundary hedgerows should be retained and new boundaries be planted with native species to provide long term habitat for nesting and foraging and that bat boxes should be provided within the development.

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<sup>2</sup> [2013] EWHC 1936 (Admin).

26. Local residents have expressed concerns about great crested newts and there are claims that corncrakes have been heard on the site. The Ecological Appraisal noted that the development presented no risk of significant impact to great crested newts or other amphibians. This was reviewed after further objections from third parties as a pond around 240m from the site had been omitted from the original assessment, but the conclusion did not change.
27. With regard to corncrakes, there has been no official record of the siting of these birds on the appeal site. The field does not represent good or valuable habitat for the species and it would not be a breeding ground. Although there may well have been incidental occurrences of these birds, the loss of the field for occasional visits would not have a significant impact on the conservation of the species.
28. Following the submission of additional information at the planning application stage, the Council's Countryside Management Officer found the conclusions with regard to any impact on great crested newts and corncrakes to be acceptable. I have no reason to disagree.

#### *Adjoining Properties*

29. The revised drawings considered by the Council show reasonable distances to existing properties so that there would not be unacceptable loss of privacy. Screen planting along the boundary would also limit views towards existing houses and soften the appearance of the new development in the outlook from the surrounding houses.

#### **Conditions**

30. I have considered the need for conditions in the light of the advice in *Circular 11/95: The Use of Conditions in Planning Permissions* and those suggested by the Council. I have amended and/or amalgamated some of the suggested conditions to accord more closely with the advice the circular and simplified others.
31. Otherwise than as set out in this decision and conditions it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
32. In the interests of the appearance of the development within the AONB it is necessary to require approval of details of materials (including the provision of samples and erection of a sample board on site), finished levels, boundary treatment and a landscaping and planting scheme.
33. In the interests of highway safety and general amenity it is necessary to require full details of the access road and footways (including materials, street lighting, drainage, visibility splays and phasing), a construction management plan, provision of visibility splays before work begins and a restriction on the times for lorry deliveries of site materials during construction. Dwellings should not be occupied until the access to them has been constructed.
34. To ensure satisfactory and sustainable drainage of the site it is reasonable to require prior approval of full details of foul and surface water drainage. Also, before construction of the dwellings, measures need to be taken to divert or close the existing sewer on the site.

35. As advised in the submitted Ecology Statement it is reasonable to require details of bat boxes to be provided within the development.
36. To accord with sustainable travel objectives I shall also require details of Travel Plan to be submitted for approval. That suggested seems to me to unduly onerous and unreasonable. As written it would require the appellants to implement the Travel Plan over lifetime of the development which would not be possible once the dwellings are sold. I will therefore impose a simplified condition to require that the information is provided to the firsts occupiers of the site.
37. I agree that, to ensure adequate parking provision for future occupiers, the garages should be retained and not converted to habitable accommodation. The Council has also suggested that a number of permitted development rights should be withdrawn for units 4-15 (the terraced houses) so that the appearance of the dwellings is adequately protected and that adequate curtilage areas are retained for future residents. As these particular plots are constrained, I consider that it is necessary to withdraw such rights for extensions, garden buildings and oil storage tanks to ensure that sufficient garden area remains. Nonetheless, I do not consider that the need to withdraw rights relating to roof extensions, porches and satellite dishes, which do not take up amenity space, has been justified, especially as it is not suggested that this restriction would be applied to the other units in the development. In any event, the permitted development rights regarding roof alterations/enlargement and satellite dishes are more restricted within AONBs.
38. I have not imposed suggested conditions relating to the provision of a footway along Station Road, a pedestrian crossing and bus shelter as these matters, which are outside the appeal site, are contained in the S106 Obligation.
39. The appellants objected to the Council's suggested condition for a detailed landscape management plan because of their proposal to transfer the landscaped areas to future residents with provisions in the deeds to ensure upkeep and maintenance of the areas conveyed to them. However I consider that more detail of such arrangements is necessary so that the Council can be assured that the common areas will be satisfactorily maintained. I will therefore impose a condition to deal with this matter.

## **Conclusion**

40. The site is in a sustainable location adjoining a village identified in the LSP as one of the 'Service Villages'. It is deliverable and would support existing services. I have found that there would not be a harmful impact on the character and landscape setting of Ampleforth, the natural beauty of the AONB or protected species and habitats. The site would deliver affordable housing, for which there is an identified need, at a level above the Council's normal requirements. Given the absence of an identified five year housing land supply, the principles of sustainable development and policies to boost the supply of housing set out in the Framework have significant weight in this case.
41. Having regard to paragraph 14 of the Framework, I do not find that the consequences of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, even having regard to the location of the site within the AONB.
42. For the reasons given above I conclude that the appeal should be allowed.

*Isobel McCretton*

INSPECTOR

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**Schedule Of Conditions for Appeal Ref: APP/Y2736/A/13/2197184**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except as may be required by other conditions below, the development shall be carried out in accordance with the following approved drawings: 10:1044:01B, 400A and 401B, 10:1027:10 – 27.
- 3) No development shall take place until full details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) All windows and doors and garage doors shall be constructed from timber, set in reveals of 75mm and finished in a paint finish to be agreed in writing with the local planning authority.
- 5) No development shall take place until a one metre square free-standing panel of the external walling to be used in the construction of the dwellings hereby approved has been constructed on site for the written approval of the local planning authority. The sample panel so constructed shall be retained until the development has been completed. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until plans showing details of a landscaping and planting scheme, including all existing trees and shrubs to be retained, shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate. The submitted plans and schedules shall indicate numbers, species, heights on planting and positions of trees and shrubs, including those to be retained together with details of the means of their protection during construction.
- 7) All planting, seeding and/or turfing comprised in the approved landscaping scheme shall be carried out in the first planting season following the commencement of development or in accordance with a programme which has first been agreed in writing with the local planning authority. Any trees or shrubs which within a period of five years from being planted die, are removed or become seriously damaged or diseased shall be replaced within the next planting season with other of a similar sizes and species.



- 8) Before the development commences, details of the arrangements for the long term maintenance and management of the open space area of the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. All boundary treatment shall be completed in accordance with the approved details before any dwelling hereby permitted is occupied or in accordance with a schedule of phasing for boundary treatment which has been submitted to and approved in writing by the local planning authority.
- 10) Notwithstanding condition 2 no development shall take place until full details of the access, access road, footways and verges have been submitted to and approved in writing by the local planning authority. The particulars shall include highway construction details, surfacing materials, site sections, levels, surface water drainage, visibility splays, street lighting and any proposed phasing. They shall also include sufficient details and information to enable a desktop road safety audit to be carried out in accordance with the County Council document 'Road Safety Audit Protocol' dated January 2012. Development shall be carried out in accordance with the approved details.
- 11) There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2m x 2m measured down each side of the access and the back edge of the footway have been provided. Within this area there shall be no obstruction to view above 0.6m from ground level.
- 12) No dwelling hereby permitted shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.
- 13) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details. The details shall include:
  - (a) a lorry routing plan
  - (b) on-site parking for all staff and subcontractors' vehicles
  - (c) on-site material storage area (s) to accommodate all materials required for the operation of the site
  - (d) details of the provision and implementation of appropriate wheel washing facilities to prevent the spread of mud onto the adjoining highway
- 14) During construction works there shall be no medium goods vehicles up to 7.5 tonnes or heavy goods vehicles exceeding 7.5 tonnes permitted to arrive, depart, be loaded or unloaded on Sundays and public holidays nor

at any time except between the hours of 09.30 to 15.00 on Mondays to Fridays and 08.00 to 13.00 on Saturdays.

- 15) No construction of buildings shall take place until measures to divert or otherwise formally close the existing sewer that is laid within the site have been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority.
  - 16) No development shall take place until full details of foul and surface water drainage and a programme for implementation have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 17) No development shall take place until details of the finished floor and site levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 18) No dwelling hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority showing how the use of alternative modes of transport other than the private car will be encouraged and up to date details of public transport services made available to the initial occupiers of the development. The Travel Plan shall be implemented in accordance with the approved details.
  - 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), the garages hereby approved shall not be converted to habitable living accommodation.
  - 20) In respect of plots 4-15, notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no development falling within classes A, E and G shall take place.
  - 21) Before development commences details of the type and location of bat boxes to be located on the new dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
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