

Appeal Decision

Site visit made on 6 December 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 21 December 2016

Appeal Ref: APP/G2713/W/16/3158519

131 Long Street, Thirsk, North Yorkshire, YO7 1BB

- 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 Mark McCalmont against the decision of Hambleton District Council.
 - The application Ref 15/02851/FUL, dated 10 December 2015, was refused by notice dated 7 April 2016.
 - The development proposed is a new detached bungalow to the rear of 131 Long Street.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached bungalow at the rear of 131 Long Street, Thirsk, North Yorkshire, YO7 1BB in accordance with the terms of the application, Ref 15/02851/FUL, dated 10 December 2015, subject to the conditions in the attached Schedule.

Procedural Matter

2. I have removed the words "*re-submission of refusal determination 15/01334/FUL for a*" from the description of development as they do not describe the actual act of development.

Main Issue

3. The main issues are (i) whether the proposed dwelling would be sustainable in respect of its location; (ii) whether the proposed dwelling would preserve or enhance the character or appearance of the conservation area; (iii) the effect of the proposed dwelling upon the living conditions of adjoining occupiers in respect of noise and disturbance; and (iv) the effect of the proposed dwelling upon highway safety.

Reasons

Location

4. Hambleton Local Development Framework (LDF) Core Strategy, April 2007 (CS) Policy CP1 indicates that development that would significantly harm the natural environment will not be permitted. CS Policy CP2 indicates that development should be located so as to minimise the need to travel by private car. CS Policy CP4 indicates that development outside of the Development Limits of the settlements will only be supported when an exceptional case can be made for the proposals in terms of Policies CP1 and CP2 and where it satisfies certain criteria. Neither party suggests that it satisfies any of the
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listed criteria and both parties agree that the site is outside of the development limits of Thirsk. The explanation for Policy CP4 indicates that the policy is intended to create sustainable communities and to focus development within settlements where it will help to support the use of local infrastructure and facilities. It says that this approach helps to reduce the need to travel by car.

5. Since the CS was adopted, the National Planning Policy Framework has been published and this is a material consideration. One of the core planning principles contained in Paragraph 17 is that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. The Council agree that the site is close to the main Town Centre and may therefore be classed as "sustainable" in terms of its accessibility to services. A dwelling on this site would therefore minimise the need to travel and it would help to support the use of local infrastructure and facilities in accordance with the Framework.
6. I conclude that the site is sustainable in terms of its location and I find no conflict with CS Policies CP1 or CP2. I accept that the development is not within the settlement boundary and there is therefore an element of conflict with CS Policy CP4. However, given the site's acknowledged close relationship with the settlement, I consider that the proposal is broadly in accordance with the aims and objectives of this Policy.

Conservation Area

7. Part of the site, where the bulk of the proposed building would be, is within the Thirsk and Sowerby Conservation Area. The Council seems happy with the design of the dwelling but says that this area of the town is characterised by road frontage development and that a dwelling at the rear would not respect this character. I accept that road frontage development is predominant in the area. That said, the pattern of development surrounding the site is irregular and made up of plots of widely varying size, layout and density. Furthermore, the site is alongside other dwellings where domestic paraphernalia would not look out of place. Within this context, I see no reason why a further layout form would cause any harm.
8. The Council has made reference to the potential surfacing around the access as harming the Conservation Area. However, the pavement in front of the site is not in the Conservation Area and not really visible from it.
9. I therefore conclude that the proposed development would preserve the character and appearance of the conservation area. Consequently, I find no conflict with CS Policy CP16 or LDF Development Policy (LDF DP) DP28 which seek to preserve and enhance the District's natural and man-made assets and to preserve or enhance conservation areas.

Living Conditions

10. The access to the property would be via an archway which runs between 129 and 131 Long Street with the upper floor of 131 above it. Vehicles would also travel alongside the boundary of the private amenity space of 127, 129 and 131 as well as some windows in the flank wall of No 131. I saw at my visit that No 131 already uses the access for parking and I do not consider that the low numbers of vehicular movements associated with one additional dwelling,

estimated by the Council of 6 per day, would materially harm the enjoyment of the neighbouring gardens or have much impact upon the windows of No 131.

11. The appellant assessed the noise impact upon the room above the arch (the most affected part of the building). A Land Rover Discovery passing through was used as the noise source. This showed that the noise levels as a result of the car passing through were low and indicated a level of noise which would not harm the living conditions of the adjoining occupiers. The Council has not disputed this data. I note the comments from the neighbour at 129 that he can hear and feel vibrations from cars using the arch but the technical evidence suggests that any disturbance is very low and within reasonable tolerances.
12. Given these results, I consider that the traffic movements resulting from the proposed dwelling would not harm the living conditions of the adjoining occupiers. Consequently, I find no conflict with CS Policy CP1 or LDF DP Policy DP1 which seek to protect the amenity of neighbours.

Highway Safety

13. The dwelling would take its access through a solid arch which blocks visibility of the pavement in front of it. The bay windows of the dwellings to the sides of the arch also present an obstruction to visibility. I acknowledge that pedestrians, especially those with sensory impairments, might be unaware of vehicles emerging. However, the arch is long standing and already used for access and I have little evidence of an existing problem. The pavement serves only a small number of properties and the main pavement and cycleway is on the other side of the grass verge adjacent to the road. The appellant has also offered to put tactile paving to the sides of the access to act as a warning.
14. Whilst 2 cars might not be able to pass on the drive, the amount of traffic involved is so low that I do not see this factor as being a risk to highway safety. I note neighbour's comments about turning space but the layout of the drive and parking area suggests to me that a car would be able to turn within the site. I also note neighbours' comments that there is little lighting around the access but it is usual for cars to use headlights in the dark and these will alert passers-by. Given the low amount of pedestrian traffic and the small number of additional vehicle movements, I do not consider that the development would pose an unacceptable risk to highway safety.
15. I therefore conclude that the proposed dwelling would not harm highway safety. Consequently, there would be no conflict with CS Policies CP1 or LDF DP Policies DP3 and DP4. In combination, these policies broadly seek to ensure safe access to development.

Other Matters

16. Neighbours have said that the archway would not provide access for emergency vehicles but I have no specific evidence from any of the emergency services in this respect. I acknowledge comments that the site is close to the Cod Beck Flood Plain, but I have no technical evidence to suggest that the site is liable to flooding. I understand that the site has not been previously developed but this in itself is not a reason to withhold planning permission. I have no specific evidence that there are archaeological remains on the site.

17. I have had regard to the decision¹ of my colleague upon a previous proposal at the site. However, the two proposals are materially different as the previous appeal concerned 3 dwellings which would have incurred many more vehicle movements than one dwelling. Furthermore, I do not know the precise evidence that the previous Inspector had before her.

Conditions

18. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance. In addition to the standard implementation condition it is necessary in the interests of precision, to define the plans with which the scheme should accord. Conditions in respect of parking and access are imposed in the interest of highway safety. Conditions relating to materials, boundary treatment and landscaping are necessary in the interests of visual amenity. As the development is very small scale I consider that a construction management plan and wheel-washing facilities are not necessary.

Conclusion

19. Whilst I find some conflict with the development plan, i.e., CS Policy CP4, I consider that the site is in a sustainable location. I find no harm in respect of the character or appearance of the conservation area; living conditions or highway safety. In the absence of demonstrable harm, I allow the appeal subject to conditions.

Siobhan Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PP01; PP02B; PP03; PP04B.
- 3) No development shall commence until details of the means of enclosure, including walls, fences and gates have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented before the dwelling is first occupied. The completed scheme shall be maintained thereafter.
- 4) No construction shall take place until samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping (Drawing PP04B) 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 within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

¹ APP/G2713/W/16/3141641

- 6) The dwelling shall not be occupied until the approved vehicle access, parking and manoeuvring areas have been constructed in accordance with the approved drawing. They shall remain thereafter and shall be kept clear of obstruction.
- 7) The dwelling shall not be occupied until full details of the proposals for pedestrian protection at the junction of the site access with the footway have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the first occupation of the dwelling.