
Appeal Decision

Site visit made on 13 February 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 03 March 2017

Appeal Ref: APP/E2001/W/16/3161230

27 North Bar Without, Beverley, East Riding of Yorkshire HU17 7AG

- 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 Dr Alan Underwood against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/15/03044/PLF/EASTSE, dated 4 February 2016, was refused by notice dated 21 July 2016.
 - The development proposed is the erection of new dwelling house with four bedrooms and a car park.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of new dwelling house with four bedrooms and a car park at 27 North Bar Without, Beverley, East Riding of Yorkshire HU17 7AG in accordance with the terms of the application, Ref DC/15/03044/PLF/EASTSE dated 4 February 2016 subject to the conditions set out in the schedule to this decision notice.

Application for costs

2. An application for costs was made by Dr Alan Underwood against East Riding of Yorkshire Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are firstly whether the proposal would preserve or enhance the character or appearance of the Beverley Conservation Area and secondly, the effect of the proposal on the living conditions of the occupiers of the neighbouring properties with particular regard to light and outlook.

Reasons

Character and appearance of Conservation Area

4. The Beverley Conservation Area (CA) covers a large part of the centre of Beverley. As a consequence it has many different styles of architecture, materials and built form. The appeal site is located in part of the CA referred to as Area 1 North Bar Without. This is a small part of the wider CA which covers properties to the north-east of North Bar Without along with buildings on the south west side of North Bar Without between York Road and the Hurn.
 5. North Bar Without is one of the main roads into Beverley and within the vicinity of the appeal site has terraces of mainly eighteenth and nineteenth century
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houses set very close to the footway. The terraces are close together giving a strong sense of enclosure to the street and views towards the rear gardens are largely unavailable. Spacing between buildings increases towards the north west as the development becomes more suburban.

6. To the rear of buildings fronting North Bar Without is an area described within the Conservation Area Appraisal (CAA) as having largely been gardens and open space into which individual dwellings of the twentieth century have been placed within the former large gardens. It goes on to state that the buildings have little impact on the CA as its green and lush character has been maintained. The density of development is very low. Furthermore built forms are low key so they do not impact on views towards the Hurn, which is a large area of open space providing the setting for the CA to the south west. Plots are mainly narrow, long and walled creating a labyrinth of narrow winding back tracks leading to walled gardens, small outbuildings and in some instances houses. The majority of the buildings to the rear are though subservient to those fronting North Bar Without.
7. 27 North Bar Without forms a mid terrace house set back a little way from the footway within a narrow linear plot which extends a considerable distance to the rear. The rear garden is enclosed by high brick walls and laid to lawn with mature trees and shrubs. A narrow private driveway from York Road gives access to the rearmost part of the plot. As a result No 27 and its garden contributes positively to the character and appearance of the CA.
8. There is no dispute between the parties that the principle of developing the site for a house would be acceptable subject to satisfying all other material considerations. The proposed house would be split across two main sections, which would be one and a half storeys high linked by a single storey section. I note the concerns of Historic England in relation to the overall size of the footprint which they consider would not be subservient to the principle residence facing North Bar Without. In this respect as it would be a departure from the established pattern of development within the area they consider that the proposal would cause minor harm to the CA.
9. Nonetheless, as a result of the high walls surrounding the appeal site the majority of views from nearby gardens would only consist of the roofs of the two main sections of the house with the lower intervening section largely hidden. Consequently, it would have the appearance of two separate buildings within the grounds of No 27. Due to the limited height and therefore mass of the proposed dwelling these would not dominate views, but instead be subservient to No 27 and its neighbours. Indeed the rearmost part of the proposal would be substantially smaller than the nearby house to the rear of 21/23 North Bar Without. I acknowledge that the flat roof of the lower section would be visible from the upper windows of the immediate adjacent neighbouring houses. Nevertheless the occupiers view would be of the proposed sedum green roof which would go some way to maintaining the green nature of the rear garden.
10. The large plot would be subdivided by the proposal with a brick wall which would be characteristic of the surrounding boundary treatment. While the subdivision would lead to the loss of the original extensive single plot, I have already found that development would be carried out in a manner that was consistent with the surrounding character. Furthermore, I saw other examples

of rear plots that had been subdivided either through the provision of a house, or rear garages/outbuildings. Such a subdivision would therefore not be unusual. Moreover the proposed house within a walled garden would reflect the character of the area.

11. The house would have a modern design in contrast to the traditional houses fronting North Bar Without. However, I saw other examples of modern development within the local area and therefore the proposal would not be unacceptable or unique in this respect. The CAA notes that there is a broad palette of materials within the CA. Materials proposed for the house are red brick, slate and some lead cladding which I saw would be representative of the traditional materials used elsewhere within the CA. I note that Historic England consider the house would be of a high quality modern design which responds well to the plot layout. This reinforces my opinion that the design and materials of the proposal would not be harmful to the character and appearance of the area.
12. The Council in its Committee report confirms that the density of the appeal proposal would be lower than that expected in accordance with Policy H4 of the East Riding Local Plan 2012-2029 Strategy Document 2016 (the Local Plan). Nevertheless it would be acceptable given the low density of development in the area identified in the CAA. As a result the low density subservient appearance of buildings within walled gardens to the rear of the principle residences would be preserved. Furthermore the use of traditional materials with a modern design would not be harmful to the character and appearance of the CA.
13. For the reasons above I conclude that the proposal would preserve the character and appearance of the Beverley Conservation area. It would therefore be in accordance with Policies ENV1 subsections A.1, B.1 and B.3 and ENV3 sub-sections B.1 and C of the Local Plan and sections 7 and 12 of the National Planning Policy Framework (the Framework). These require amongst other things that development is of high quality design which respects the diverse character and appearance of an area, is of an appropriate scale, density, massing, height and materials and preserves the significance of Conservation Areas.

Living conditions

14. The Council has not included reference to its reason for refusal relating to the living conditions of the neighbouring residents within its statement. During my site visit I had the opportunity to view the appeal site from the interior of 29 North Bar Without and I have also had reference to comments submitted by parties.
15. No 29 is a mid terraced property set back from the main line of adjoining properties so that it extends significantly beyond the rear elevation of No 27. It has three storeys and the rear elevation contains a high amount of glazing serving living rooms on the ground floor with bedrooms above. The rooms currently have an open outlook over gardens in all directions. 25 North Bar Without is also a terraced dwelling but set in line with No 27 and contains windows in the rear elevation which have an open outlook.
16. The proposed house would be sited close to the boundary to both No 25 and No 29 which is marked by a high brick wall. There has been no daylight/sunlight

analysis submitted with the appeal. However the single storey middle part of the dwelling would not be visible above the boundary wall. Closest to No 29, about 27.5 metres away, would be a small area of roof projecting above the boundary wall. This element would be further from No 25. Given the small size of the visible area it is unlikely to have an unacceptable effect on the outlook from the neighbouring properties and their gardens.

17. Further away would be the side gable of the main part of the dwelling. However as this would only be one and a half storeys high it would not be dominant or obtrusive when viewed either from No 25 or No 29 and their gardens. Furthermore the low height and intermittent nature of the development along the boundary means it would not be enclosing.
18. There would be no windows in the north elevation of the property and only ground floor windows on the south elevation. There would therefore be no opportunity for direct overlooking into the gardens of either No 25 or No 29.
19. Properties to the east and west would be sited a significant distance from the proposed house. As a result the intervening distance would ensure that there would be very limited opportunity for overlooking from the proposed windows in each end elevation towards these properties and that the proposal would not be significantly overbearing.
20. For the reasons above I conclude that the proposal would not be harmful to the living conditions of the occupiers of surrounding residential properties with particular regard to light and outlook. It would therefore be in accordance with Policy ENV1 subsection B4 and paragraph 17 of the Framework. These require that development should have regard to the amenity of existing or proposed properties and always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

21. No 29 is a grade II* Listed Building. I am therefore required to pay special regard to the desirability of preserving the Listed Building or its setting. It has a large rear garden which together with the adjacent gardens play a considerable role in the ability to appreciate the rear of the listed building which contributes to its significance.
22. The limited height of the proposal, together with its articulation into two separate parts linked by a single storey section means that the open aspect to the rear of the building would be maintained and the proposal would therefore not have a harmful impact on the setting of the listed building and hence its significance.
23. The private road that would be used to access the proposal known as the 'ten foot' is narrow. I understand though that it is currently used for vehicle access to No 27 and therefore it is unlikely that there would be any significant increase in use of the access as it would not still be available for the residents of No 27.
24. Some concerns have been raised regarding obstruction caused by construction traffic. I have given some consideration as to whether a construction management scheme would be necessary in this respect and also consulted main parties. The Council referred me to appeal decision APP/E2001/W/16/3159721 regarding a similar proposal taking access from the private road. I would concur with my colleague's view that the service lane is

in private ownership and the question of any private rights allowing free passage over this area is not a matter for consideration in this appeal. I see no reason why construction materials could not be delivered to the site in small loads therefore minimising any risk of obstruction. Whilst the proposal is likely to result in some disturbance to local residents during the construction period this would only be for a relatively short time due to the small scale of the project. Furthermore, potential damage to walls would be a civil matter beyond the remit of this appeal.

25. Concerns have been raised regarding access for emergency services and delivery vehicles. However the Highway Authority did not object to the parking and access arrangements. Moreover access was not, in this respect, a reason for refusal.
26. Policy S5 of the Local Plan establishes a target of at least 20% of new housing on PDL. The site is not previously developed land (PDL). However I note that the Council did not raise this issue or non-compliance with Policy S5 as a concern or reason for refusal.
27. I am aware of paragraph 66 of the Framework which expects applicants to work closely with the local community when formulating their proposals. However there is no requirement for this to happen.
28. The appellant has referred to planning permission ref 16/01672/PLF for a house on land east of Park House to the south west of the appeal site which the Council considered not to have a harmful effect on the character and appearance of the CA. However, I am not aware of the exact circumstances which led to this proposal being acceptable and cannot be sure they are the same as those in the appeal before me. In any case I have determined the appeal based on its own merits.

Conditions

29. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of clarity it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
30. A condition regarding the specific materials to be used together with details of the roof lights is necessary to protect the character and appearance of the CA. A condition requiring the layout and retention of the access, parking spaces and turning area is required in the interests of highway safety.
31. I have carefully considered the Council's submitted conditions regarding the removal of permitted development rights for the roof of the proposed house. Paragraph 017 of the Planning Practice Guidance states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. In this instance because of the importance of the design and height of the house to the character and appearance of the CA together with the narrowness of the plot and proximity of neighbouring residential properties I consider that there are exceptional circumstances and I have imposed the conditions.

Conclusion

32. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2011-221 01 Rev C, 2011-221 02 Rev C 2011-221 03 Rev C
- 3) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwelling until details of the materials to be used in the construction of the external surfaces of the building 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) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwelling until full details, including samples as required, of the proposed roof lights have been submitted to and approved in writing by the Local Planning Authority. The roof lights shall be installed prior to the completion of the dwelling in accordance with the approved details and thereafter so retained.
- 5) The dwelling shall not be occupied until the vehicular access has been provided and space has been laid out within the curtilage of that dwelling for at least two motor cars to be parked and to enable vehicles to turn so that they may enter and leave the site in forward gear in accordance with the details hereby approved. The vehicle parking and turning facilities shall thereafter be retained and kept available for their intended purposes at all times thereafter.
- 6) Notwithstanding the provisions of Classes A or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be altered or extended anywhere in the eastern or western elevations.
- 7) Notwithstanding the provisions of Class C of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no alterations to the roof formation (other than those expressly authorised by this permission) shall be constructed or formed to any elevation.
- 8) Notwithstanding the provisions of Classes A or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages or other outbuildings shall be erected other than those expressly authorised by this permission.