
Appeal Decision

Site visit made on 22 March 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 10 April 2017

Appeal Ref: APP/N2739/W/16/3166363

Wayside Cottage, 16 Main Street, Monk Fryston, Selby LS25 5EG

- 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 Steven Masters against the decision of Selby District Council.
 - The application Ref 2016/1091/FUL, dated 10 September 2016, was refused by notice dated 18 November 2016.
 - The development proposed is the erection of a pair of semi-detached houses, two detached houses, a single garage, a double garage and creation of a vehicular access.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a pair of semi-detached houses, two detached houses, a single garage, a double garage and creation of a vehicular access at Wayside Cottage, 16 Main Street, Monk Fryston, Selby LS25 5EG in accordance with the terms of the application, Ref 2016/1091/FUL, dated 10 September 2016, subject to the conditions in the schedule at the end of this decision.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, including the setting of Monk Fryston Conservation Area.

Reasons

3. The application site is an open grassed area within the residential curtilage of a property located within the defined development limits of Monk Fryston. The settlement is classified as a Designated Service Village by the Core Strategy Local Plan (CSLP) which was adopted in 2013. Policy SP4 of the CSLP advises that within such villages appropriate scale residential development on greenfield land, including garden land, will be acceptable subject to normal planning considerations. The residential development of the appeal site is therefore acceptable in principle.
 4. Monk Fryston is a village that is characterised by linear development, with cul-de-sacs off the roads that pass through it providing some residential development in depth.
 5. In terms of assessing the significance of the Monk Fryston Conservation Area, I have taken into account the comments received and my observations during the site visit. The Conservation Area covers inward looking linear development along Main Street. Buildings are typically gable ended, built from local stone and set on or close to the back edge of the pavement. Monk Fryston Hall, and what appear to be its extensive grounds, cover a large part of the Conservation
-

Area. The Conservation Area also encompasses areas of open land around the edge of the village. However, that does not include the appeal site. The traditional buildings and their arrangement reflects the history of the settlement and has created an attractive built environment. The significance of the Conservation Area is therefore historical.

6. The appeal site is located to the rear of Main Street next to but, other than in relation to the proposed vehicular access, outside of the Monk Fryston Conservation Area. The statutory test in relation to development within a Conservation Area is that special attention shall be paid to the desirability of preserving or enhancing its character or appearance. There is no suggestion from the Council that the vehicular access would cause harm to the Conservation Area. Given that it would occupy a similar space to other residential side roads off Main Street, it would not harm the character or appearance of the Conservation Area and so would pass the statutory test.
7. As the appeal site is positioned next to the Conservation Area it lies within its setting. No statutory protection is afforded to the setting of a Conservation Area. Nevertheless, paragraphs 128 and 129 of the National Planning Policy Framework ('the Framework') requires an assessment of the significance of heritage assets that might be affected by a development proposal, including any contribution to their significance made by the setting of those assets.
8. That part of the appeal site where the proposed houses would be built is set back from the road behind the house at No 16. It is rectangular in shape and other than in relation to the access it is enclosed by housing or residential gardens on all sides.
9. Two previous applications for residential development on the appeal site have been dismissed on appeal¹. In both appeals, the Inspectors found that part of the character of the village derived from the open spaces behind the built up road frontages and the gaps between properties which afforded extensive public views.
10. However, since these appeals were determined the context of the appeal site has changed. A bungalow to the north west of the site on Fry Common Lane has been redeveloped. Before this occurred, the bungalow's particularly large plot formed an open space to the west of the appeal site and the modest size of the dwelling allowed views through to Fry Common Lane and the northern part of the Conservation Area. The redevelopment of the site has resulted in its subdivision into two plots upon which two large, closely spaced, detached houses have been built. These houses are set further back into the site than the bungalow. As a result, since the previous appeals were determined the land to the west has a far more suburban character and a significant amount of its openness has been lost. As a consequence of this development, there are also no longer any material views across the appeal site of Fry Common Lane itself from Main Street.
11. The proposed detached house in the 2009 appeal would have interrupted views westwards towards the centre of the village and Conservation Area from the cul-de-sac immediately to the east of the appeal site. In the 2012 appeal as the proposed detached house would have been set further back into the site it would have restricted views in this direction to a lesser extent. In my assessment, the proposed development in the appeal before me, whilst also

¹ References APP/N2739/A/09/2099193, APP/N2739/A/12/2176637

- restricting views, would not do so to the extent that views towards the centre of the village from the cul-de-sac would be materially harmed.
12. For the reasons given above, the appeal site only affords an experience of the Conservation Area as a heritage asset in limited views towards the village centre from the cul-de-sac to the east. As these views would not be materially adversely affected by the proposed development, the setting of the Conservation Area would not be harmed.
 13. Outside the Conservation Area, limited residential development in depth along cul-de-sacs off the roads that pass through the settlement are a feature of Monk Fryston. Indeed, as I have noted, a cul-de-sac is located immediately to the east of the site and one is also present close by on the opposite side of the road. As a result, the proposed cul-de-sac would complement the pattern of development of the village. The proposed two storey houses in scale, form and density would be in keeping with the dwellings that characterise the area. Subject to the use of appropriate materials, which is a matter that could be secured by condition, the dwellings would also complement the appearance of buildings in the village.
 14. Taking all these matters into account, I therefore conclude that the proposed development would not adversely affect the setting or heritage significance of Monk Fryston Conservation Area. I also find that the design of the scheme would complement the character and appearance of the locality. As a result, the proposed development would comply with policies ENV1 and ENV2 of the Selby District Local Plan, policies SP4, SP18 and SP19 of the Selby Core Strategy and the Framework. These policies require the protection of the character and appearance of a locality, including conservation areas, through high quality design that respects local design features.

Other matters

15. In terms of highway safety, adequate visibility splays could be achieved at the site entrance. Although no visitor parking would be provided the Council's view is that satisfactory parking provision would be made. The Council has no objection on highway safety grounds, subject to conditions regarding the creation of the new access and management of the site during construction. On the basis of what I have read and seen of the site and Main Street, I have no reason to disagree with those conclusions.
16. The appeal site is located within Flood Zone 1 which is the zone with the lowest risk of flooding. Nevertheless, there is evidence that the appeal site, together with some of the neighbouring gardens, are subject to localised flooding due to inadequate drainage of surface water. Whilst the Inspector in the 2009 appeal found that in the absence of suitable investigations this matter could not be dealt with by condition, I concur with the Inspector in the 2012 appeal and the position of the Council that harm in this regard could be avoided. In my judgement, a condition preventing the commencement of development on the site until a suitable scheme has been agreed with the Council would ensure that this issue is satisfactorily addressed.
17. In terms of privacy, outlook and levels of light, I agree with the Council that the separation distances between the existing and proposed houses, together with the orientation of the proposed dwellings, would prevent material harm in this regard. An area for bins would be located by the entrance to the development next to 14 Main Street. However, as this would be an assembly

area for bins on collection day, and bins are lidded, this would not harm the living conditions of the occupiers of No 14.

18. In terms of biodiversity, I see no reason to disagree with the Council's stance that the site is not of any significant value. Given that the proposed houses are set well away from the north west boundary of the site where a tree is located, it is unlikely that the tree would be harmed by the development or during construction.
19. The submitted plans refer to retention of the existing gated access from the cul-de-sac immediately to the east for use by emergency fire engines. The cul-de-sac is a private road and it is argued that no such right exists to use it. However, as this is a matter of civil law, and a planning application is determined on its planning merits, this is a consideration that has not altered my assessment of the appeal.

Conditions

20. To provide certainty, development needs to be carried out in accordance with the approved plans. In order to ensure that the development complements its surroundings, control needs to be exerted over the external materials used. Given that some of the details that have been provided on the submitted plans are generic, for example, reference to the use of 'natural stone', a sample panel is necessary to achieve this.
21. In the interests of highway safety, the new access to the site needs to be constructed. Although the appellant states that the wide break in the front boundary wall is not an access to the site, it has the clear appearance of an access and could be used as one. Accordingly, to prevent conflict between vehicles it needs to be closed off. In the interests of highway safety, a construction method statement is also necessary to control the management of vehicles and materials during development of the site.
22. To minimise the risk of surface water flooding, further details on surface water drainage are necessary. In the interests of public health, provision for the disposal of foul water needs to be made and waste and recycling containers provided. Given the potential for nuisance to nearby residents control needs to be exerted on the hours of construction. Sundays and bank holidays are particularly valuable and construction noise on such days would be particularly intrusive. I have therefore prevented construction on these days.
23. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.
24. A condition has been suggested requiring the provision of details of boundary treatments. However, there is sufficient detail on the submitted plans to illustrate what is proposed. As a result, this condition is unnecessary.

Conclusion

25. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed. In reaching this decision the views of local residents and the Parish Council have been taken into account.

Ian Radcliffe

Inspector

Schedule

- 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: 643/01, 643/02, 643/03
- 3) Notwithstanding condition 2, no development of a building shall take place until a sample panel of the materials to be used in the construction of its external surfaces has been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No part of the development shall be brought into use until the existing access on to Main Street has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access, other than that approved as part of this permission, shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority.
- 6) There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements;
 - a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6
 - b. Any gates or barriers shall not be able to swing over the existing or proposed highway.
 - c. Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway and the measures taken shall thereafter be maintained to prevent such discharges.

- 7) No development shall occur until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The scheme shall detail phasing of the development and phasing of drainage, where appropriate. Works shall be implemented in accordance with the approved details. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) Demolition or construction works shall take place only between 08:00 hours and 18:00 hours on Mondays to Fridays and 08:00 hours and 17:00 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) Prior to first occupation of the dwellings hereby permitted, waste and recycling containers shall be provided for each dwelling.