
Appeal Decision

Site visit made on 26 June 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 1st August 2017

Appeal Ref: APP/W9500/W/17/3172640

Land to south of Brookfield Cottage, Maltongate, Thornton Dale, North Yorkshire

- 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 Mrs G Forster against the decision of North York Moors National Park.
 - The application Ref NYM/2015/0919/FL, dated 14 December 2015, was refused by notice dated 4 November 2016.
 - The development proposed is 2 No detached dwellings with garaging and new access on land to the south of Brookfield, Thornton Dale.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would preserve or enhance the character or appearance of the Thornton le Dale Conservation Area including its effect on the setting of Brookfield, a Grade II Listed Building; and
 - The effect of the proposal on the living conditions of nearby occupiers with particular reference to outlook and noise and disturbance.

Reasons

Character and appearance

3. The appeal site is an open area of vacant land to the rear of the properties in Maltongate and Roxby Road that is accessed via Brookfield Gardens.
4. It was formerly part of the garden serving Brookfield, a Grade II Listed Building fronting Maltongate, and forms part of the historic farmstead grouping originally associated with it. This includes the single storey late 18th Century cottage at Brookfield itself (which is on the end of a row of adjoining traditional dwellings), 2 and 3 Brookfield Gardens which are immediately adjacent to the appeal site to the north and are conversions of former barns, and outbuildings which were originally greenhouses and machinery stores but now serve as garages for Brookfield and adjoining Dale Cottage.

5. The setting of a heritage asset is defined in the Glossary to the National Planning Policy Framework (the Framework) as the surroundings in which a heritage asset is experienced. In this case, despite being on a higher ground level to Brookfield, the open land to the rear of Brookfield forms part of the original farmstead group. As open land which would have served the barns, outbuildings and cottage, the appeal site has a functional and historic relationship with Brookfield and contributes to the grouping's relevance as a former farmstead.
6. Thus it plays a role in the historic significance of the collection of traditional agricultural buildings including the Listed Building. Despite the intervening vegetation, the open nature of the appeal site is appreciated from Maltongate behind Brookfield's side walled garden area and the adjacent historic pinfold¹. It seems to me that it affects the ability to appreciate the historical significance of Brookfield and consequently I consider the appeal site to form an important part of the setting of that Listed Building and so to contribute to its significance.
7. The site is also within the Thornton le Dale Conservation Area. This covers much of the picturesque village which is centred around the village green. In Maltongate in the vicinity of the appeal site the area is characterised by traditional cottages and buildings which reflect the historically agricultural role of the area, with simple functional stone cottages lining the road parallel to Thornton Beck. The appeal site and the buildings nearby play a role in defining the traditional rural character of the settlement which is part of the Conservation Area's significance as a heritage asset.
8. Accordingly, I have had regard to my statutory duties under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and had special regard to the desirability of preserving the setting of Brookfield. In light of Section 72(1), I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
9. The appeal site is also within the North York Moors National Park. Paragraph 115 of the Framework indicates that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in the National Parks. The North York Moors National Park Management Plan (MP) sets out the special qualities of the Park which include settlements which reflect their agricultural, fishing or mining past, with locally distinctive buildings and building materials.
10. The proposal seeks the erection of two detached two storey houses which would be positioned at right angles to each other. Dwelling 1 would be sited parallel to Maltongate. It would measure around 14.5 metres long by 6 metres deep with a ridge height of 6.6 metres and an eaves height of 4.5 metres. Dwelling 2 would be positioned with its gable end facing Maltongate. It would measure 14.6 metres long by 6 metres wide. The main part of the roof would be 6.6 metres to the ridge, and 4.5 metres to the eaves, but it would be stepped down adjacent to Brookfield with a resultant ridge height of 5.8 metres and eaves height of 3.6 metres.

¹ A pound or enclosure for stay animals which the Authority confirms is the subject of a monument record.

11. The appeal site sits between different forms of development. There are traditional low cottages to the east in Maltongate, more modern larger detached two storey brick dwellings fronting Roxby Road to the west and the converted barns at 2 and 3 Brookfield Gardens to the north. The Authority raises no objections to the proposed plot sizes or the space that would be provided around the dwellings. The ridge heights of the proposed houses would not exceed those of Tangalwood and 61 Roxby Road or those of 2 and 3 Brookfield Gardens.
12. Nevertheless, the houses fronting Roxby Road are part of the street scene there and are not visible from Maltongate. In line with its historic association with Brookfield the appeal site appears primarily as land to the rear of the properties in Maltongate. In the context of the modest low rise development there, the proposed houses would be tall. Since the eastern boundary of the appeal site is around 2 metres above the level of Maltongate, they would also be seen in an elevation position from there.
13. The site is separated from the historic streetscape in Maltongate by Brookfield's side garden and the pinfold. These do not form part of the appeal site and would be retained. The proposed houses would be set well back from the back edge of the pavement in Maltongate (the gable end of Dwelling 2 would be some 16.8 metres from it and the rear elevation of Dwelling 1 would be some 18.5 metres away). They would also be sited behind mature trees and shrubs which screen the site to some degree. Even so, given their height and size, the proposed buildings would still be visible, above and beyond the vegetation, and to some extent through it when the deciduous plants and trees are not in leaf during the winter.
14. When viewed from Maltongate, despite being stepped down in height, Dwelling 2 would introduce a considerable gable ended building close to the rear of Brookfield. Although 3 Brookfield Gardens is already visible in views from Maltongate on approach from the south, it is well to the north of Brookfield and set some distance away from it. In contrast proposed Dwelling 2 would bring two storey development very much to the foreground in views from Maltongate. It would be seen directly behind Brookfield's attractive walled garden and the pinfold and at much closer quarters than the existing barn conversion in Brookfield Gardens. Dwelling 1 would be set back further from the road, but its long rear elevation would also be visible on approach from the north along Maltongate from where it would be seen beyond the pinfold.
15. The buildings are designed to look like converted barns and to appear as backland development rather than as part of the frontage in Maltongate. They would be of a simple agricultural design, utilise traditional materials and be the same height as the existing barn conversions at Nos 2 and 3. However, those buildings are positioned in a row at the northern edge of what would have been the extent of the farmstead group. In contrast, the proposed dwellings would be set at right angles to each other towards the middle of the site on what would historically have been part of the open grounds and agricultural land serving Brookfield.
16. As such, I am not convinced that the proposal would reflect a pattern of development that could be reasonably expected as part of a historic farmstead grouping, or that the houses would appear from Maltongate as sympathetic or subservient backland development. Rather, to my mind they would stand out

as unduly tall and bulky features in Maltongate which would be dominant and overbearing in relation to the existing buildings there and be appreciated as incongruous features.

17. This being so, the proposed dwellings would overwhelm and visually compete with Brookfield. They would be close to it and affect views of it from Maltongate. The current open appearance of the appeal site reinforces Brookfield's historic connections and status as part of the farmstead. The proposed dwellings would undermine the historic role of both the appeal site itself and the dwelling at Brookfield with unduly large and prominent development. Paragraph 132 of the Framework is clear that the significance of a heritage asset can be harmed or lost through development within its setting. In this case the proposal would undermine the experience of Brookfield.
18. The proposal would also have an overbearing and detrimental impact on the streetscene in Maltongate and would be at odds with the pattern of development nearby. It would infill the existing gap that has arisen due to the area's agricultural past and detract from the attractive open appearance of Brookfield's side walled garden and the adjacent historic pinfold at the roadside. This being so, it would serve to unacceptably erode the traditional rural character of the settlement in this part of Maltongate, which is part of the Conservation Area's significance as a heritage asset.
19. Bringing matters together, by virtue of its size, scale and prominence the proposal would fail to be in keeping with, and would detract from, the setting of Brookfield and the character and appearance of the Conservation Area, which are both of significance to the area's heritage. Paragraph 131 of the National Planning Policy Framework (the Framework) indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area and Brookfield, the harm caused would be material.
20. I therefore conclude on this main issue that the proposal would undermine the setting of Brookfield, would fail to preserve or enhance the character or appearance of the Thornton le Dale Conservation Area, and would adversely affect the significance of these designated heritage assets. This would be contrary to Core Policy A of the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies (LDF) which provides a number of factors that will be considered in order to deliver the National Park priorities and sustainable development whilst conserving and enhancing the Park's special qualities. Priority will be given to, amongst other things, conserving and enhancing the landscape, settlement, building features and historic assets of the landscape character areas (criterion 4).
21. It would be at odds with LDF Core Policy G which seeks to ensure that the landscape, historic assets and cultural heritage of the National Park are conserved and enhanced, with particular protection being given to those elements which contribute to the character and setting of Conservation Areas (1) and Listed Buildings (2). It would fail to support LDF Development Policy 3 which requires the design of development to maintain and enhance the distinctive character of the National Park and is permissive of development where the siting, orientation, layout and density preserves or enhances views

into and out of the site, spaces about and between buildings and other features that contribute to the character and quality of the environment (criterion 1).

22. The proposal would conflict with LDF Development Policy 4 which aims to ensure that development within or immediately adjacent to a Conservation Area either preserves or enhances the character and appearance or setting of the area, and requires the scale, proportions, design detailing and materials of the development to respect the existing architectural and historic context (criterion 2). Whilst not cited on the decision notice, it would also be contrary to LDF Development Policy 5 which states that any development which would have an unacceptable impact on the setting of a Listed Building will not be permitted. Furthermore, the proposal undermines the core planning principles of the Framework of preserving the significance of designated heritage assets and securing high quality design.

Living conditions nearby occupiers

23. The appeal site sits at a slightly lower level than the neighbouring dwellings to the west and the ridge heights of the proposed dwellings would be lower than those of the existing dwellings there. The gable end of Dwelling 2 would face the rear elevations of Thornton House and No 61 which front Roxby Road. The nearest corner of Thornton House would be 22 metres from the blank gable end of Dwelling 2's single storey attached garage, and 25.4 metres from its two storey blank gable end. The nearest point of No 61 would be 17.6 metres from the single storey garage element, and 21 metres from the two storey blank gable end. The rear elevation of Tangelwood would be about 21.7 metres from the rear elevation of Dwelling 1 and 13.2 metres from its garage.
24. All these distances exceed the industry standards for space about dwellings referred to by the appellant. I have seen no local guidelines in this regard and the Authority does not refute the appellant's findings on this matter. On this basis, whilst I appreciate that the proposed dwellings would introduce development to a currently open site and so would inevitably be visible from these neighbouring properties, given the separation distances involved I am not persuaded that the proposed houses would lead to any undue loss of outlook or daylight or sunlight to the neighbouring properties to the extent that the living conditions of their occupiers would be harmed.
25. In terms of vehicle movements and noise and disturbance, the proposed dwellings would be accessed via Brookfield Gardens. The existing access there serves the three properties there and the garage to the rear of Brookfield and Dale Cottage. In response to concerns raised by the Highway Authority, the appellant initially agreed that the garage would revert to being a garden store only, such that vehicles could not use it.
26. The rescinding of these parking arrangements was intended to be secured via a planning condition and was agreed as a trade off against the onsite parking to be provided for the two proposed dwellings to ensure that the private drive would not be used by more than 5 dwellings (in order to comply with the County Council's highways development control policy in terms of highway safety). However, since he considers that Brookfield Gardens is not the principal means of access for Brookfield and Dale Cottage, the appellant now argues that, even taking into account the appeal scheme, Brookfield Gardens would only provide the principal means of access for 5 dwellings. As such, he regards the condition to be unnecessary and unreasonable.

27. The proposal would introduce two additional dwellings. In addition to the regular comings and goings that will be associated with the current use of Brookfield Gardens, the proposal would result in further trips to and from the site undertaken by the occupiers of the proposed dwellings, along with visitor and delivery trips. I have seen no estimation as to how many additional journeys would arise, but even though only two units are proposed, by the nature of their residential occupation, movements to them would be sustained and regular, taking place throughout the day and evening. As such, there would be an increase in the number of vehicle movements in Brookfield Gardens.
28. This would be so even if vehicle access to the rear of Brookfield and Dale Cottage and its garage was rescinded as previously suggested. The occupiers of those properties also have the alternative of being able to park on Maltongate, where it would be more convenient to access the front of those properties, particularly for visitors and deliveries. On the other hand, the occupiers of the proposed houses would only have the option of parking at their properties. As such, all the vehicular movements associated with them would be via Brookfield Gardens. Therefore, the proposal would give rise to more vehicle movements than the use of the garages.
29. At the moment vehicles associated with 1-3 Brookfield Gardens and the garages travel to the side and rear of Thornton House. The occupier of that property already finds the noise from this to be intrusive. The proposal would increase vehicle activity in these areas and in close proximity to Thornton House and its front and rear gardens. Moreover, whilst the vehicles using Brookfield Gardens are currently contained towards the northern part of the site, the proposal would introduce garages, parking and turning areas for the two new houses directly to the rear of No 61 and Tangelwood. This would give rise to vehicle movements in very close proximity to these rear gardens where the occupants currently enjoy a peaceful outdoor environment, and introduce vehicle movements to an area where there is currently no vehicular activity at all.
30. In this context, overall I consider that the proposal would result in an unacceptable increase in the levels of noise and disturbance that would be experienced by the occupiers of the houses nearby. This would be so despite the rear fences which are in place to the rear of the houses fronting Roxby Road.
31. I have had regard to the former use of the appeal site in connection with the builder who previously occupied Brookfield. I understand that he used the site as a builder's yard, the garage as a workshop, and that the vehicles using the site included a car, a tractor and a dumper truck. Although I accept that that use of the site may have given rise to higher levels of vehicular activity at the site in the past, I am mindful that it has not been occupied as such for a number of years and I have seen no evidence to suggest that its previous use is likely to resume.
32. I therefore conclude on this main issue that whilst there would be no harm to the living conditions of nearby occupiers with reference to outlook, the proposal would have a harmful effect on the living conditions of nearby occupiers with regard to noise and disturbance. This would be contrary to LDF Core Policy A which gives priority to providing a scale of development and level of activity

that will not detract from the quality of life of local residents. It would conflict with LDF Development Policy 3 which requires the scale, height, massing, proportion, form, size, materials and design features of the proposal to be compatible with surrounding buildings, and not have an adverse effect upon the amenities of adjoining occupiers. It would also be at odds with the core planning principle of the Framework to seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The Planning Balance

33. I have found harm to the setting of Brookfield and the Conservation Area. Whilst this would be less than substantial (as described at paragraphs 133 and 134 of the Framework), the harm caused would be material. I give considerable importance and weight to the presumption that preservation of these assets and their setting is desirable. Although I have found that there would be no harm to the living conditions of nearby occupiers with reference to outlook, the proposal would also cause harm to the living conditions of nearby occupiers with regard to noise and disturbance.
34. The site is in a sustainable location, close to services and facilities in the village and public transport opportunities to larger settlements. LDF Core Policy B sets out the spatial strategy for the North York Moors and identifies Thornton le Dale as a Service Village where new open market housing is appropriate. Core Policy J confirms that a mix of housing types will be sought to maintain the vitality of local communities. The proposal would contribute to housing land supply and the future occupiers of the dwellings would support local services in Thornton le Dale and help to maintain and enhance the vitality of the village. Short term construction work would also be created. These are public benefits of the proposal. However, they are insufficient to outweigh the harm that would be caused to the significance of the designated heritage assets I have described along with the harm to the living conditions of nearby residents.
35. Provided the vehicular use of garages serving Brookfield and Dale Cottage's is revoked, the Highway Authority raises no objections to the proposal. However, as set out above, the appellant considers such a condition to be unreasonable and unnecessary. The Highway Authority disagrees. Be that as it may, given my conclusions on the two main issues in this case, the matter of highway safety is not determinative in this case and so it has not been necessary for me to come to a view either way on this matter. As such, it counts neither for, nor against the proposal and is neutral in the balance.
36. I appreciate that the proposal was amended a number of times during the Authority's consideration of the planning application. The scheme was the subject of lengthy discussions and revisions and was recommended for approval by Officers. Even so, this factor adds no weight in favour of the proposal, which I have considered on its own planning merits.

Conclusion

37. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR