The Planning Inspectorate

Appeal Decision

Site visit made on 12 June 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/E2734/W/19/3220809
Holly Garth, Swalewood Lane, High Birstwith HG3 2JN

- 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 & Mrs M Williamson against the decision of Harrogate Borough Council.
- The application Ref 18/03662/FUL, dated 2 September 2018, was refused by notice dated 26 October 2018.
- The development proposed is demolition of garage and erection of dwelling, including carport/store/eco plant, turbine, swimming pool and hydro unit.

Decision

1. The appeal is dismissed.

Procedural Matters

2. For the sake of brevity and clarity I have used in the banner heading the description of development as provided in the Council's decision notice.

Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the Nidderdale Area of Outstanding Natural Beauty, (ii) trees and (iii) the living conditions of occupiers of neighbouring properties with regards to noise.

Reasons

Character and appearance

4. The appeal site is located at the bottom of a steep hill with trees surrounding the site. There is an existing garage on site however the remainder of the site is predominantly open in nature. There are a scattering of buildings close by, mainly constructed from stone and of traditional architectural design. The site is within the Nidderdale Area of Outstanding Natural Beauty (AONB) and also within the Council's Landscape Character Area 24 and Natural England's National Character Area 22: Pennines Dales Fringe. The Harrogate District Landscape Character Assessment (LCA) describes the area in which the appeal site lies as having a valley floor landscape pattern that is intimate and diverse with random fields typical of early enclosure. Field boundaries are an eclectic mix of walls, hedges, stock fences and metal estate fences. Woodland and tree cover are particularly good on the valley floor. I concur with these descriptions.

5. The proposed dwelling would introduce a building of contemporary nature which would be out of keeping with the existing traditional style of properties in

the area. The scale, design and materials of the proposed building would not complement the surrounding built form, which would be to the detriment of the appearance of the immediate area.

6. I have had regard to the appellants statement of case, including the submitted plans and photos of the surrounding area. The appeal site is not readily visible within the wider landscape or from surrounding public rights of way, due to tree screening and the rolls in the landscape. I also note that the appellant states that the proposal is designed to be part of the landscape, requiring no landscape mitigation. Nevertheless, the site is visible from closer views, particularly from Smalewood Lane and due to its design, the proposal would appear as a prominent feature within the immediate landscape setting.

7. I acknowledge that the appellant considers Smalewood Lane to be a quiet lane however, this lane is not a private access and there are several properties accessed directly from this lane. The proposal, with its flat roof design and large amounts of glazing, would be an incongruous feature that would be an intrusion into the landscape pattern of the area immediately surrounding the appeal site. The proposal would be visible from Smalewood Lane and any passers-by would encounter the harmful effects of the proposed development.

8. Paragraph 120 of the appellants statement details a number of other developments which have been granted planning permission. Full details of these developments have not been submitted and therefore I am unable to establish whether these are directly comparable to the proposal subject of this appeal, particularly with respect of design, scale, location and development plan policy. Nevertheless, this appeal has been determined on its own merits.

9. The proposed wind turbine is a modern feature that would be a stark contrast to the natural environment of the area surrounding the appeal site. The size and unnatural design of the wind turbine would be at odds with the surrounding landscape having an adverse effect on the landscape character. The appellant has indicated that there are other small to medium size wind turbines around the District including a multi-turbine wind farm at Kettlesing. However, I do not have full details of these wind turbine schemes and so cannot be sure that they represent a direct parallel to the proposed wind turbine, including in respect of location, size and design. In any case, I have determined the appeal on its own merits.

10. The proposed development would introduce discordant features that would have a harmful effect on the character and appearance of the AONB. The proposal would be in conflict with Policy SG4 of the Harrogate District Local Development Framework Core Strategy (CS), Policies C1, C2 and HD20 of the Harrogate District Local Plan (LP) and the National Planning Policy Framework (the Framework) which, amongst other things, seeks development to be appropriate to the form and character of the settlement and landscape character, and priority will be given to the conservation of the natural beauty of the landscape.

Trees

11. A number of trees lie along the appeal site boundary, including 2no Ash trees on the north boundary, which have had provisional Tree Preservation Orders served on them. These trees are visually prominent in the surrounding area,

particularly from Smalewood Lane and do significantly contribute to the visual amenity of the area.

12. The proposed dwelling would be located in close proximity to the 2no Ash trees. An Arboricultural Report by Iain Tavendale (AR) has been submitted in support of the proposal. The AR indicates that the proposed dwelling would be constructed within the root protection areas of the trees and that a construction methodology statement would ensure the future health and viability of the trees.

13. I note that the Council's Arboricultural Officer has considered the AR and raised concerns, particularly regarding comments that the pruning and ongoing management in a reduced form may be unacceptably expensive and time consuming and that felling, and replanting would be a simpler alternative.

14. Whilst I note that the appellant has indicated that a construction methodology statement could be sought through planning conditions. The absence of convincing evidence that the proposed dwelling can be constructed within the root protection area of the trees and in light of the comments from the Council's Arboricultural Officer, there is considerable doubt in my mind as to whether the proposed building can be adequately constructed without harming surrounding trees, in particular the 2no. Ash trees.

15. On the evidence that is before me, I am not convinced that the proposed dwelling could be constructed without causing harm to surrounding trees. The proposed development would therefore be contrary to Policy EQ2 of the CS and Policies HD13 and HD20 of the LP which seek to protect the natural environment and prevent the loss of trees which contribute to the character of an area.

Living conditions

16. There are concerns that the proposal, in particular the solar photovoltaics, the wind turbine, ground water heat pump, water source heat pump and hydro power, would have an adverse effect on the living conditions of neighbouring occupiers with regards to noise.

17. The appellant has submitted a Wind Turbine SD6 Acoustic Report in support of this appeal. However, this report refers to a wind turbine which has a bigger rotor diameter than that proposed in this appeal and also refers to a site at Prince Bank Barn in Lumb. Whilst the appellant indicates that the engineering specification/components from this report are identical to the wind turbine proposed, the report does not relate to the appeal site and does not take into consideration the landscape surrounding the appeal site or the proximity of neighbouring properties.

18. I have had regard to the appellants statement of case which includes documents and reports[1] referring to the proposed solar photovoltaics, ground water heat pump, water source heat pump and hydro power. Information is provided on how some of the proposed equipment would operate including noise sound levels. The majority of this information however, is not site specific

[1] Decibel Intensity Chart; Design and Access Statement; Crossflow turbines info sheet; Advice Download Guide to UK mini hydro developments; Engineering Toolbox sound calculation; YS table of typical-weights-of-building-materials; The Bluestream CF20 Turbine; Typical washing machine sound levels; Hydro Power Ecowave Case Studies.

to the appeal site and does not consider the relationship between the proposals and neighbouring buildings.

19. I note that the Council's Environmental Protection Officer considers there to be insufficient information to be able to determine the noise levels from the proposals. Given the absence of site specific evidence, I am not convinced that the proposals would not have an adverse effect on the living conditions of neighbouring occupiers with regards to noise.

20. There is no substantial evidence before me to convince me that the living conditions of occupiers of neighbouring properties would not be unduly harmed by noise from the proposals. The proposal would be contrary to Policy HD20 of the LP which seeks new development to respect the amenity of nearby residents and occupiers of adjacent buildings.

Other matters

21. The proposed development would introduce an eco-house with sustainable credentials by including solar photovoltaics, the wind turbine, ground water heat pump, water source heat pump and hydro power. The proposal would not have an adverse effect on highway safety with sufficient parking provided including electric charging points. There are no fundamental concerns with regards to the proposed developments effects on drainage, archaeology, ecology and biodiversity. These matters however, would not outweigh the harm I have identified in the main issues.

22. The appellant is critical of the way the Council has dealt with the planning application, including communication with the appellant, consultation on the application and discrepancies in the Officers Report. These do not alter my assessment of the planning merits of the scheme.

23. The Council has supplied a Housing Land Supply update in which it states that a 6.89 year supply can be demonstrated. No evidence has been supplied to contradict this and I have therefore assessed the appeal on this basis.

Conclusion

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

Chris Baxter

INSPECTOR