



Appeal Decision

Site visit made on 6 August 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Appeal Ref: APP/C2708/W/19/3229554

Fairmount, Starkey Lane, Farnhill, Keighley BD20 9AW

- 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 Elliot Exley against the decision of Craven District Council.
 - The application Ref 2018/19738/FUL, dated 10 September 2018, was refused by notice dated 13 March 2019.
 - The development proposed is described as: 'Demolition of Fairmount and the construction of three properties all with off street parking'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. With regard to the refusal reason on the Council's decision notice, I note that no Development Plan Policies have been cited, only the National Planning Policy Framework (the Framework). However, both parties in their submissions have referenced various saved policies contained within the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999 (LP) and the Council's Draft Local Plan (DLP). I therefore have had regard to the quoted policies and to the general provisions of the Framework as appropriate.
3. The DLP has not been found sound by an Inspector and has not yet been adopted by the Council. However, given the stage of preparation, I attach moderate weight to the emerging policies (SD1, ENV2, ENV3 INF4, SP3 and SP4) referenced by both parties. Notwithstanding this, the starting point for determining this appeal remains the saved policies within the LP. The relevant LP Policy (H4) is broadly consistent with the Framework. I have dealt with the appeal on this basis.
4. For clarity, I have taken both the name of the appellant and the address of the site from the appeal form.

Application for costs

5. An application for costs was made by Mr Elliot Exley against Craven District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues of this appeal are:
 - the effect of the proposed development on the character and appearance of the appeal site and Farnhill Conservation Area (FCA); and,

- the effect of the proposed development on the living conditions of neighbouring occupiers in respect of privacy and outlook.

Reasons

Character and appearance

7. The site is located within the FCA and comprises a detached vacant bungalow and a free-standing garage with access from Starkey Lane. The proposed development would involve the demolition of the existing structures on site and replacing them with the erection of 3no. three-bedroom terraced houses that would all comprise of a hallway, utility room, toilet and a lounge / dining room / kitchen at ground floor. At first floor each property would have a bathroom and three bedrooms. The houses would be constructed in stone with slate roofs.
8. It is common ground between the main parties that the principle of development is acceptable and that the existing bungalow on the site is of limited architectural quality. During the course of the application, I note that the proposal was amended on numerous occasions, omitting the proposed en-suite bedrooms in the roof space and the roof lights with an overall reduction in height of the proposed units, amongst other things.
9. I consider that the design of the proposed dwellings has been influenced from the variety of property styles in the vicinity. Subsequently, I find the overall external design / appearance and height of the proposed houses would not cause any significant harmful issues to the character and appearance of this part of the FCA, which includes some larger scale and modern properties, such as No 37 Starkey Lane and No 48 Starkey Lane, which are both in the immediate vicinity of the appeal site. Additionally, the proposed dwellings would respond well to the steep incline of Starkey Lane and due to their form, they would complement the adjacent traditional terrace.
10. However, I find that this section of Starkey Lane is defined by the majority of its properties having a form of front boundary treatment or being sited to the rear of the pavement. In the immediate vicinity of the site, this is in the form of stone walls, with hedgerows and timber fencing bolstering the boundary treatments in some instances. Thus, I find that the little enclosure to the front boundaries of the appeal scheme, in order to provide the necessary access for the associated vehicle parking, forms an uncomplimentary and incongruous feature in the street-scene. This would highlight the amount of hard surfacing proposed in front of the development, which would be visually excessive, to the detriment of the prevailing character and appearance of the FCA. I note that some sub-division of this area is proposed through low stone walls and planting, and that high-quality materials are proposed for the dwellings and the path and parking areas, but the amount of hard standing would still appear as a harsh and out of place addition when viewed from public areas.
11. I note that the heritage advice¹ (HA) provided to the Council acknowledges that the Farnhill Conservation Area Appraisal 2016 (FCAA) identifies a key view from the top of Starkey Lane, which I too noted on my site visit. However, the findings contained within the HA do not consider that the proposed development would significantly harm public views, due to the presence of such

¹ Heritage Advice provided by John Hinchliffe of Hinchliffe Heritage dated 7 December 2018

features as 2 Monkey Puzzle trees and the overall topography of the road. I agree with these observations. Although the FCAA has not yet been adopted by the Council, I still consider it to be a material consideration in this appeal due to its overall relevance.

12. The appellant has referenced 4 planning applications² for residential development in the surrounding area. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes. Consequently, I cannot be sure that these are entirely representative of the circumstances in the appeal before me. In any event all appeals are judged on their own individual merits and where appropriate the relevant legislative provisions. Accordingly, that is how I have assessed this appeal scheme.
13. Having regard to the above, I conclude that the proposed development would fail to preserve or enhance the character or appearance of the FCA. It would, therefore, fail to accord with the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) concerning the desirability of preserving or enhancing the character or appearance of the FCA.
14. For the reasons outlined above, I therefore conclude that the development would significantly harm the character and appearance of the appeal site and the FCA. As a consequence, it would not accord with the design, character, appearance and heritage aims of LP Policy H4, and DLP Policies ENV2 and ENV3.
15. Additionally, the proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the FCA for the purposes of paragraph 196 of the Framework. The proposal would add to the Council's supply of housing, through the provision of an additional 2 dwellings, when the existing dwelling is taken into account. The site is located in an accessible location, close to other facilities and would result in some limited economic and social benefits. However, as public benefits, these would not outweigh the less than substantial harm to the significance of the FCA.
16. Reference to saved LP Policy T2 has been made by the Council in its Questionnaire. However, this policy relates to road hierarchy and highways. Therefore, I find it is not directly applicable to the main issues of the case before me.

Living conditions

17. The site is surrounded by residential properties. In the Officer Report, the properties most likely to be affected by the proposed development are identified as No's. 33, 37 & 48 Starkey Lane and No. 12 Mary Street. I agree with this observation.
18. No 33 is located directly to the south of the site, where the proposed development would be located approximately 5m to the north up the road. The gable end of Plot 1 would have no habitable room windows facing the outdoor amenity area to No 33. However, although Plot one would occupy a higher level, I do not find that it would have a detrimental effect on the living

² 2018/19003/FUL; 2014/14871; 2011/11649 and 2011/11432

conditions of the occupiers of No 33 or their ability to effectively use their outdoor amenity space due to the distance that would be maintained between the properties, coupled with no facing habitable room windows being located in the proposed development. Additionally, No 33 is located to the south of the site, thus ensuring that the sunlight it receives would not be significantly affected. No 37 is located to the north of the site and is sited on higher ground. I find that due to the approximate 7m distance between No 37 and Plot 3, the slight stagger in building line and the higher ground that No 37 is sited on would ensure that the proposed development would have a limited effect on the living conditions of its occupiers, particularly when using the balcony area or from within the room that it serves.

19. With regards to No 48, I find that the overall distance that would be maintained over the road would be sufficient to ensure that its occupiers would not experience any significant harm to their living conditions. However, I do have concerns with regard to the effect of the proposed development on the living conditions of no 12.
20. During my site visit, I also viewed the appeal site from No 12 and I could see the site from their garden area. On the rear elevations of No 12 habitable room windows were present at both ground and first floor, including the conservatory. I noted that the ground level differs at this neighbouring property as the house is sited at a lower level than the proposed houses, albeit marginally. Additionally, I observed that No 12 would be positioned at an oblique angle to the proposed development, with a raised patio area to the rear of its garden.
21. Notwithstanding the above and taking into account the oblique angle between facing elevations on the proposed and existing development, I find that the interface distances between the habitable windows of the proposed houses and the habitable room windows at first floor of No 12 to be acceptable, even when taking the lower land level that it occupies into account. However, I find that the siting and subsequent relationship that would occur between the proposed development and No 12 would not ensure that the living conditions of the occupiers of No 12 would be protected.
22. Although, the proposed development would not directly face No 12, I noticed that the rear garden of No 12 would be overlooked by the first-floor rear bedroom windows in the proposed development. This area would be clearly visible from the proposed first floor windows of the development, particularly from Plot 2 and Plot 3. Due to their proximity and elevated position, they would overlook the rear garden of No 12, which is clearly used by its occupiers. The ability to overlook this area of garden would result in a significant loss of privacy to the occupiers of this property. Additionally, I find that it is highly likely that the occupiers of No 12 would experience loss of privacy when sitting in their conservatory from the same windows of the development. I note the boundary fencing proposed between the development and No 12, but I find that whilst this is likely to prevent any significant loss of privacy from the proposed ground floor rear windows in the development, it would do little to prevent any harmful effects on the living conditions of No 12 from the windows proposed at first floor in the rear elevation.
23. For the reasons outlined above, I therefore conclude that the development would significantly harm the living conditions of No 12. As a consequence, it

would not accord with the amenity aims of LP Policy H4, DLP Policy ENV3 and the Framework.

Other Matters

24. Third parties, including local residents and Farnhill Parish Council have also expressed a wide range of concerns on the application including, but not limited to the following: highway safety; loss of daylight; loss of a bungalow; ecology and protected species; utilities; duration of construction work and associated vehicles, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
25. I acknowledge the dwellings per hectare figures presented by the appellant, but due to my findings on the main issues, I find that collectively they indicate that the proposal represents overdevelopment of the site in this instance. Furthermore, I note the quantitative analysis of public comments in the appellant's submission. However, this data does not alter the conclusions that I have reached on the main issues.
26. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, including the advice contained within a pre-application enquiry, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

27. I have had regard to no objections being received from the Local Highway Authority and other statutory consultees. However, A lack of harm associated with highways is a neutral factor that weighs neither for nor against the development. I acknowledge that the development would make some positive contribution to the Council's supply of housing sites and that it would bring some social and economic benefits to the area through the provision of new housing and during the construction phase of the development. However, I find these benefits to be relatively limited and not sufficient to outweigh or alter the harm identified in respect of my conclusions on the main issues.
28. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR