
Appeal Decision

Site visit made on 30 September 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 11 November 2019

Appeal Ref: APP/N4720/W/19/3233729

Milnthorpe Cottage, Wetherby Road, Bramham, Wetherby LS23 6RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Browne against Leeds City Council.
 - The application Ref 18/07408/FU, is dated 28 November 2018.
 - The development proposed is demolish existing dwelling and outbuildings, erection of 5 dwellings and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal has been made against the Council's failure to give notice within the prescribed period of a decision on an application for planning permission at Milnthorpe Cottage. The Council's Statement of Case sets out six putative reasons for refusal had the Council been in a position to determine the application.
3. The Council's putative reasons for refusal refer to a number of policies from the Core Strategy (CS) and saved policies from the Leeds Unitary Development Plan (Review) (UDP). The Council's subsequent Statement of Case assesses the proposal against the provisions of those policies, along with those set out in the Bramham Neighbourhood Plan.
4. However, in addition to the above, reference was also made to emerging policy in the form of the Core Strategy Selective Review (CSSR). The Council have subsequently confirmed that the CSSR was formally adopted on 11 September 2019 and that as a consequence, CS policies SP6 and SP7 have been superseded. I am required to determine the appeal on the basis of the development plan as it exists at the time of my determination and both parties have had the opportunity to comment on the significance of the CSSR's adoption on their respective cases. I have determined the appeal accordingly.

Background and Main Issues

5. Having regard to the above, and particularly the putative reasons for refusal set out by the Council, I consider the main issues to be:
 - Whether the proposed development would preserve or enhance the character or appearance of the Bramham Conservation Area;

- The effect of the proposed development on the living conditions of occupiers of existing neighbouring properties and future occupiers of the proposed dwellings, with particular regard to privacy and outdoor amenity space;
- Highway safety; and
- Ecology

Reasons

Character and appearance

6. The appeal site lies towards the northern edge of the Bramham Conservation Area (the CA), the CA being characterised in the Conservation Area Appraisal and Management Plan (CAAMP) as an area of fine-grain built form where properties front onto the road, often at pavement edge, and are generally of two storey with gabled roof form. The CAAMP, extracts and quotes from which I have been referred to, identifies Milnthorpe Cottage as a positive building within the CA.
7. Milnthorpe Cottage exhibits a number of the features of the CA as noted by the Council in the CAAMP. It is two storey in scale, with a gabled roof form, the gable elevation of which lies almost directly adjacent to the pavement edge. Although a building which has clearly been added to and extended over time, its front and gable elevations are constructed of warm-hued natural stone. The property extends across almost the entire width of the tapering plot, and its orientation and open front garden and driveway emphasise the presence of the distinctive stone walls, another characteristic feature of the CA.
8. The proposed development would reflect, in parts, some of the CA's characteristic features. Plot 1 would be of two storey construction, gabled roof and located close to the pavement edge. Although plot 1's street-facing elevation would clearly read as the dwelling's front elevation, its broadly south-facing elevation would also evoke the orientation across the plot of Milnthorpe Cottage, whilst the fenestration and detailing of this elevation would also reflect the confident stance of the existing cottage within the plot.
9. However, plots 2 to 5, laid out as two pairs of semi-detached dwellings, would depart from the prevailing character of the surrounding area, and the CA as a wider entity. Most significantly, the three storey scale of these dwellings would be conspicuously and incongruously at odds with the scale and character of the surrounding area, and indeed much of the conservation area. This would be particularly evident in the proportions of, and relationship between, first floor fenestration and eaves level. The result; an extensive area of masonry creating a poorly proportioned, incongruous, awkward and uncomfortable façade.
10. The rising ground levels towards and past the appeal site to the north would naturally result in some variation in roof and ridge levels, but the juxtaposition of the scale and orientation of plot 1 with plots 2 to 5 would be heavy handed. As a consequence, the exposed gable elevation of plot 2 above plot 1 would dominate views towards the site in a manner at odds with the scale of development around it. Furthermore, whilst the siting of plots 1 and 5 attempts to recreate the garden wedge in front of Milnthorpe Cottage and the sweeping rear garden, both these spaces would be significantly more

constrained and confined than they are at present. The restricted gaps between the properties would significantly erode the pleasing sense of space around Milnthorpe Cottage and introduce an abrupt full-stop to built development somewhat at odds with the more spacious character of surrounding development.

11. I appreciate that there are examples of three storey dwellings elsewhere within Bramham but it seems to me that they are more recent additions to the CA, rather than buildings upon which the main characteristics of the CA are derived. In any event, some of those shown appear to be on heavily sloping sites and so the design and scale of those particular properties could be said to respond to prevailing ground conditions and levels. The appeal site is broadly level and set at approximately road level. There is not, I conclude, sufficient justification based upon those examples to support the scale of buildings within plots 2 to 5.
12. The proposal would feature short stretches of stone boundary walling across the site frontage, mostly at plot 1 and between the driveway openings for plots 3 and 4. Whilst this would evoke the prevailing form and nature of frontage walls along this stretch of Wetherby Road, the benefits of this would be offset by the width of the driveway openings serving plots 2 to 4 and result in a significantly more fragmented form than that of the existing property, and of nearby properties.
13. The proposal would, for the reasons I have set out, fail to deliver high quality design that properly and fully responds to the character or appearance of the surrounding area. It would also, for the same reasons, fail to preserve or enhance the character or appearance of the Bramham Conservation Area. That failure to preserve or enhance would cause harm to the CA.
14. However, in the parlance of the National Planning Policy Framework (the Framework), that harm would be less than substantial. The Framework states that great weight should be given to the conservation of a heritage asset¹. Any harm, it goes on to state², should require clear and convincing justification. Where the harm is less than substantial, that harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use³.
15. I have noted the content of the appellant's structural survey which identifies areas of structural concern including (but not limited to) distortion of the southwest gable elevation wall and rotation of the 1980's extension at its interface with original building. The Council strongly disagree with the conclusions reached by the structural survey but offer little in the way of substantive evidence to the contrary other than an assertion that they consider the building to be 'most definitely structurally sound and fit for habitation'.
16. However, although the Council have not provided any compelling evidence to counter the findings of the structural survey, I have noted that the conclusions reached within the survey are based on a visual non-disruptive structure inspection of the building. Whilst I have no reason to doubt its findings, the suggestion that parts of the building are beyond repair has not been expanded

¹ Paragraph 193

² Paragraph 194

³ Paragraph 196

upon or further justified. Nor have options for repairs been set out, considered and / or discounted. Thus, whilst I give moderate weight to the findings of the survey, that weight is not sufficient to justify a form of development that would result in the harm to the character and appearance of the CA that I have identified above.

17. The proposal would result in a net increase of 4 dwellings. This would contribute to housing supply within the Council's area. Although there is disagreement as to the extent of the Council's deliverable housing land supply, even if a supply in excess of 5 years does exist, this does not place a moratorium on new housing, particularly in light of the Framework's support for the Government's objective of significantly boosting the supply of homes. The existence of a 5-year housing land supply is not therefore a limit or an upper threshold. Thus an additional 4 dwellings (net) would help the Council deliver homes, is a public benefit and can therefore be afforded weight, albeit modestly so given the limited quantum of development in this instance.
18. The site is, in part at least, previously developed land and so its reuse can be given weight as a public benefit, albeit limited as it the site is not wholly so, the remainder being greenfield residential curtilage. That the site is bounded by residential development is not a public benefit as such, whilst the economic and social benefits arising from the construction and occupation of an additional 4 (net) dwellings attracts weight in support, albeit qualified by the limited scale of the development proposed.
19. It may be that some of the materials from the existing cottage can be reclaimed and used in construction of one or more of the proposed dwellings, but to do so would not amount to the reconstruction of the existing property as the appellant appears to suggest. The weight that I can give this matter as a benefit is limited as a consequence. Taken together, these limited public benefits would not outweigh the less than substantial harm that I have identified above, and I am statutorily required to give great weight to the conservation of heritage assets.
20. For the reasons set out, the proposal would fail to deliver high quality design that properly and fully responds to the character or appearance of the surrounding area. It would also, for the same reasons, fail to preserve or enhance the character or appearance of the Bramham Conservation Area. That failure to preserve or enhance would cause harm to the CA and public benefits would not outweigh that harm. The proposal is therefore contrary to CS policies H2, P10, P11 and P12, saved policies GP5, N18a, N18b, N19 and N25 of the Leeds Unitary Development Plan (UDP) and policy H3 of the Bramham Cum Oglethorpe Neighbourhood Development Plan (NDP), and the relevant provisions of the Framework in this respect.

Living conditions

21. The proposed dwelling at plot 1 would be located towards the tapered point of the wedge-shaped appeal site. Unlike the spacious setting and surroundings of the existing dwelling within the appeal site, it would be sited close to the stone wall that marks the rear of the site and, beyond that wall, the rear of the nearest property on Milnthorpe Gardens.
22. Although the stone wall is of considerable height, its height currently steps down towards the site's Wetherby Road frontage. It is not clear whether the

- appellant intends to increase the height of the lower portion of the stone wall, although both the lower and higher elements would provide a degree of intervening screening between the side and rear windows of the proposed plot 1 and the dwelling to the rear on Milnthorpe Gardens.
23. However, the wall would be significantly less effective as a screen between the upper floor of the proposed dwelling and the rear of adjacent property. The upper floor room would, like the room below, be dual aspect with windows on side and rear elevations. Given the proximity of the dwelling on plot 1 to the house to the rear, and that the rear elevation of the latter has a number of windows at ground and first floor, it is clear to me that there would be significant inter-visibility between the two, across a relatively short distance, from both upper floor windows of bedroom 4.
24. The appellant states that the proposal has been designed, with regard to CS policy GP5, to satisfy the space about dwellings requirements. How it would do so however is not expanded upon or explained and nor have the Council's distances as quoted in their Statement of Case been challenged. Thus, with regard to plot 1, the proposal would result in a degree of overlooking and a loss of privacy which would, due to the proximity of plot 1 to the dwelling to the rear, result in material harm to the living conditions of occupiers of that property. Nor, for the same reason, would the proposal ensure a good standard of amenity for future occupiers of proposed plot 1.
25. With regard to plots 2 to 5, there would be a greater distance between their rear elevations and the blank gable elevation of the property to the rear of them on Milnthorpe Gardens. Although space around the rear of plot 2 would be limited, and would fall short of the Council's guidance in this respect, proximity to the rear of the plot would not result in harmful inter-visibility resulting in loss of privacy to the detriment of living conditions for either existing or future occupiers.
26. Given the tapering nature of the site, certain plots would have greater access to space around the dwelling than others. Thus, whilst plots 3 to 5 have more generous garden areas, and plot 1 has areas to the side and rear of the dwelling, the limited space around Plot 2 would be conspicuous in its relative lack of space and depth. The substantial and distinctive stone wall along this rear boundary would also be an imposing presence close to the rear of plot 2 and one which would dominate the restricted outlook from the rear of this property.
27. Thus, for these reasons, I conclude that the proposal would fail to protect existing, and ensure acceptable future, living conditions for occupiers of existing and the proposed dwellings. As such, it would fail to secure the high quality design and good standard of amenity sought by CS policy P10 and UDP saved policy GP5, as advised by the Council's 'Neighbourhoods for Living' Supplementary Planning Guidance (SPG).

Highway safety

28. Whilst plot 1 would benefit from two car parking spaces, plots 2 to 5 would be reliant upon one space and an integral garage. These garages, the Council claim, fall short of the dimensions set out in the Council's 'Street Design Guide' Supplementary Planning Document (SPD), despite the Council accepting that they meet the stated minimum internal dimensions.

29. Each of the plots would be provided with a shed in the garden area and there would be sufficient space in all but the case of plot 2 to be able to accommodate further outbuilding storage without materially or harmfully impinging upon outdoor space. Access from front to rear of each of the plots and the sheds therein would be direct and convenient and would not in my judgement discourage the use of them to store cycles.
30. The driveway accesses to plots 4 and 5 would be closest to the 180° degree bend just to the north of the appeal site. The area of dense woodland on the inside of the bend is such that visibility around the entirety of the corner is not, nor would be, possible. However, the sharp turn of the bend is likely to be a significant factor in limiting speeds below the prevailing speed limit. Furthermore, the sweep of the post-and-rail fence and the extent of the vegetation inside the corner are such that a significant northward splay would nonetheless exist across the existing highway verge to facilitate safe manoeuvring into and out of these driveways. There would be no conflict with CS policies P10 or T2.
31. Although a proposal for five new dwellings, the proposed scheme would deliver a net increase of four dwellings. Thus, the Council consider the site, and therefore Bramham, to be poorly served in relation to access to local services, employment, education and the (Leeds) City Centre in the context of CS policy H2. As such, the Council argue, residents would be heavily dependent on private vehicles to access those facilities but I saw that there are a range of facilities within the village.
32. However, it is not explained how or why the Council consider that the proposal would not fully meet the CS Accessibility Standards. I accept that there would inevitably be more vehicle movements associated with five dwellings than one dwelling. There is no suggestion that the proposal would be such that local infrastructure capacity would be overwhelmed and, in the absence of any further compelling evidence to the contrary, I give this matter limited weight, rather than the significant weight suggested by the Council. As I have found that the proposal fails with regard to character and appearance, this matter is not determinative in this instance.

Ecology

33. Beyond the buildings within the appeal site it is laid largely to closely maintained domestic lawn with areas of driveway, patio and other hard surfaced areas. In terms of vegetation removal, the most noticeable element of the proposal would be the removal of a short length of hedgerow towards the northern end of the site's road frontage.
34. The area to the north and west of the appeal site is characterised by a dense and mature area of woodland planting. This canopy of trees forms a continuation of an extensive verdant, sylvan barrier that runs along the eastern side of Paradise Way. Although the presence of the adjacent A1(M) is clearly felt and always present, the tree belt provides not only a welcome visual barrier from the busy road corridor but also a pleasing entrance to Bramham.
35. The site, I am advised, lies within an area designated as Strategic Green Infrastructure (CS policy SP13) and the Limestone Ridge key corridor (CS policy SP13(iii)). These designations are broad swathes of land that encircle Leeds (the former) and extend in a broad swathe along the district's eastern

extent (the latter). They seek to provide enhanced opportunities for recreation, wildlife, local distinctiveness and character and biodiversity.

36. The proposal would not alter the significance, or extent, of this woodland belt. The length of hedge to be removed, although pleasant enough, is very much secondary to the area of woodland in creating a verdant entrance point to the village. The appeal site provides no recreation value and, as closely maintained lawn in a domestic setting, limited ecological or biodiversity value. The broad character of the appeal site would not materially alter, and the areas around the proposed dwellings would be laid to lawn. The proposal would not adversely affect the woodland, and would additionally provide enhanced domestic landscape planting along the site frontage and thus, on balance, I find no conflict with the aims of CS policies G1, G9 or SP13.

Conclusion

37. I have found no harm arising in terms of ecology and highway safety, and matters of accessibility to services are not determinative in this instance, for the reasons I have set out. However, the proposal would fail to preserve or enhance the character or appearance of the conservation area resulting in less than substantial harm which would not be outweighed by public benefits, and would fail to provide adequate living conditions for existing occupiers of neighbouring properties or future occupiers of the proposed dwellings. Thus, for the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR