



Appeal Decision

Site visit made on 17 February 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/E2734/D/19/3240587

3 and 4 South View, Pool Lane, Nun Monkton, North Yorkshire YO26 8EL

- 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 And Mrs - Harrison-Graves and Marshall against the decision of Harrogate Borough Council.
 - The application Ref 19/02405/FUL, dated 31 May 2019, was refused by notice dated 14 August 2019.
 - The development proposed is the demolition of conservatory, porch and detached garage. Erection of single and two storey extension. Felling of one Birch tree T1 of Tree Preservation Order 26/2003.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development in the banner heading above differs from the description given on the original application form. The appellants have confirmed that an amended description was agreed. Accordingly, I have used the amended description as recorded on the decision notice and appeal form.
3. Since the submission of the appeal, the examining Inspector issued his report into the soundness of the Council's emerging Local Plan (ELP). He concluded that the ELP is sound subject to main modifications. The parties have had the opportunity to comment on this matter insofar as it relates to the appeal.

Main Issue

4. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Nun Monkton Conservation Area, with particular reference to the removal of the protected tree.

Reasons

5. The appeal properties are located within a terrace of 4 houses set back from the road in Nun Monkton Conservation Area (CA). No 4 South View (No 4) is positioned at the end of the terrace and within its garden is a birch tree, which is the subject of a Tree Preservation Order and is proposed to be felled.
6. There are several landmark trees identified in the Nun Monkton CA Appraisal. However, the birch tree at No 4 is not one such tree, nor does it form part of any identified key view within the appraisal. In my view, the significance of this

- part of the CA derives, in part, from the design and layout of properties and their respective gardens, landscaping including trees and boundary features.
7. There is a dispute over the categorisation of the tree between the main parties and I recognise that the tree has a biforked form and has been poorly pruned. However, in my view, the remaining canopy spread and form of the tree, rising prominently in the street scene above the terrace give it a high amenity value. In this regard it contributes to the character and appearance of this part of the CA. Its loss would subsequently harm the character and appearance of the CA.
 8. The harm would be localised and, as such, would be less than substantial in the context of paragraph 196 of the National Planning Policy Framework (the Framework). Although the harm may be less than substantial, any harm to the CA is a matter that attracts great weight, having regard to paragraph 193 of the Framework and the statutory duty to preserve or enhance CA's. In accordance with paragraph 196 of the Framework I must balance that less than substantial harm against the public benefits of the proposals.
 9. It is put to me that the proposed replacement trees would preserve the streetscape in the long term due to their location forward of the terrace and their number. This would be a public benefit. I understand discussions had also taken place regarding the potential for replacement tree planting off site. However, no such details form part of the proposals before me.
 10. Although the replacement trees may have a longer lifespan than the existing tree, the remaining life expectancy of the protected tree is disputed between the main parties. Whilst I recognise that there is an element of professional judgement on such matters, either way, the protected tree would continue to make a significant contribution to the area for many years to come. A tree of such maturity and appearance cannot easily be replaced and would not be offset by the immature planting proposed.
 11. I recognise that a careful approach has been given to the location and the type of replacement trees proposed. As such, I do not share the Council's concerns regarding their long-term success. However, this does not overcome my concerns on their appearance and contribution to the general amenity of the area, in contrast to the contribution that the protected tree makes. Consequently, I give modest weight to the replacement planting, in the context of paragraph 196 of the Framework.
 12. I recognise that the proposed development would, in part, replicate an extension on the other end terrace property. Whilst this would bring a degree of balance to the terrace, I do not consider that the group appears significantly unbalanced at present. The proposed rear extensions would be compatible with the character and appearance of No 3 and 4. However, I disagree that this would represent a significant improvement over the existing structures to the rear elevations.
 13. The existing features are small and do not dominate at the rear. To this end, I accept that the design of the proposed development would preserve the character and appearance of the terrace group. In this regard, it would accord with the objectives of Policy HD3 and HD20 of the saved Harrogate District Local Plan (adopted 2001) (LP). However, I do not consider that the proposals would enhance its appearance to any significant degree. Consequently, I give

limited weight to these public benefits, in the context of paragraph 196 of the Framework.

14. The appellants advise that the protected tree could, technically, be retained, however the cost is likely to make it uneconomical. Be this as it may, this is not a public benefit and weighs neither for or against the proposals. The proposals before me seek to remove the tree and I have assessed the appeal on this basis.
15. I note the appellants references to paragraph 40 and section 8 of the Framework and the presumption in favour of sustainable development. I recognise that there is support locally for the proposals. I also accept that the appellants, are seeking to make an effective use of the existing dwellings, an objective which is encouraged by the Framework. I understand that extending the properties might meet the appellants need for increased accommodation and would maintain a good level of private amenity space for each property. Moreover, I recognise that No 4 has been vacant for several months and the increased value of an extension could help fund the significant work required to bring the property back to habitable condition. However, I afford these benefits limited weight as the benefits to the public would be low.
16. In conclusion, the protected birch tree has a high amenity value and its loss, to facilitate the proposed development, would harm the character and appearance of this part of the CA. In the context of paragraph 196 of the Framework, the harm would be less than substantial. However, there are no public benefits in this case that outweigh the identified harm.
17. Accordingly, the proposals would conflict with the requirements of the Framework and with policy HD13 of the LP and Policy EQ2 of the Harrogate District Core Strategy (2009). These policies say, amongst other things, that proposals involving the loss of trees which contribute to the character or setting of a settlement will not be permitted.
18. Although not referred to in the reason for refusal, the proposals would also conflict with the requirements of Policy NE7 of the ELP. This policy says, amongst other things, that development should positively protect and enhance existing trees that have amenity value or contribute to the character of a settlement, unless there are clear and demonstrable reasons why removal would aid delivery of a better development. I afford significant weight to the conflict with this policy given the advanced stage of the ELP.

Conclusion

19. I have taken account of all the other matters raised including the representations in support of the scheme and the benefits advanced. However, none changes the balance of these findings and the harm I have identified from the removal of the protected tree to the character and appearance of this part of the Nun Monkton CA.
20. I therefore conclude that the appeal should be dismissed.

Robert Walker

INSPECTOR