



Appeal Decision

Site visit made on 2 June 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2020

Appeal Ref: APP/G2713/W/20/3245637

5 South End, Bedale DL8 2BJ

- 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 Liz Kidd of Eccles Heddon LLP against the decision of Hambleton District Council.
 - The application Ref: 19/01645/FUL, dated 24 July 2019, was refused by notice dated 23 September 2019.
 - The development proposed is the construction of three dormer bungalows.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on character and appearance of the Bedale Conservation Area;
 - The effect of the proposed development on highway safety in the vicinity of the appeal site, with particular regard to parking; and.
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy and outlook.

Reasons

Character and appearance of the conservation area

3. The appeal site is a long, narrow, garden area to the rear of numbers 5 and 7 South End, which form part of a long terrace of two storey buildings of varying heights and designs. The terrace has commercial properties at the north west end and becomes residential just to the south east of the appeal site. These properties all have similar, long and narrow, rear gardens running from the frontage buildings towards the watercourse of Bedale Beck. The land drops in level from the rear of the buildings towards Bedale Beck. The appeal site is currently laid mainly to grass but contains several trees and has tall vegetation on its north west boundary. The opposite boundary between the appeal site and the adjacent garden area of 9 South End is marked by a tall hedge.

4. Adjoining the north west boundary of the appeal site is a modern, mixed use, block of three and four storey buildings with commercial units on the ground floor and residential accommodation above. The short, north east boundary of the site adjoins a public car park. The site is within the Bedale Conservation Area.
5. From the Bedale Conservation Area Appraisal Supplementary Planning Document 2010 (the CAA), Bedale has a long history as a settlement, possibly dating back to the Ninth Century, but becoming a significant settlement and market town from the Thirteenth Century onwards. The CAA notes that the town's historic origins are still apparent in the Bedale Conservation Area which covers the town's ancient street pattern. During the Eighteenth Century the town grew with many of the medieval buildings fronting Market Place being refaced with three storey, brick, facades and development spreading along South End and into Wycar, with the development of brick terraced properties and individual town houses. The CAA sets out that the Conservation Area has a memorable historic character and appearance derived from a varied collection of old buildings built in a mix of domestic architectural styles and local building materials dating from the Medieval period onwards. The overlying character is that of a Georgian market town set out on the layout of the Medieval burgrave plots designated in the town charter of 1251. It is noted that moving away from the historic core, the spaces become more open and the character changes with Victorian buildings and terraces interspersed with some more modern developments.
6. From the evidence before me, the significance of the conservation area, in so far as it is relevant to this appeal, is that it is illustrative of the historic pattern of development in the town from its medieval origins and its Eighteenth Century expansion beyond its original core around the Market Place.
7. The appeal proposal would introduce three new, detached, dwellings to the rear of the donor property in a linear layout. These would be finished in brickwork with a pantile roof and would contain two floors of accommodation with the upper floor either wholly, or partly, within the roof space. A shared access path from the public car park would run along the south eastern site boundary.
8. The buildings proposed by the appeal scheme would occupy a substantial proportion of the length and width of the appeal site. The CAA notes that the gardens to the rear of North End and South End are significant open spaces that add to the character of the area, although it goes on to say that being enclosed and out of sight of the public these do not impinge on the public realm. I saw when I visited the site that these garden areas do, nonetheless, contribute to a sense of openness when experienced from the path that runs along the bank of Bedale Beck. This openness is also apparent when viewed from Harbour View to the south east and the public car park adjoining the site. The CAA sets out in the section describing the South End character area that these narrow gardens are characteristic of this area's medieval heritage and are laid out on the line of the original burgrave plots.
9. I saw that there is development on historic burgrave plots to the rear of frontage buildings elsewhere in the conservation area, and that this is of varying ages. However, I noted that this is primarily to the rear of properties on Market Place and to a lesser extent on parts of North End, which are the older parts of the conservation area and which have been developed over the

longest period of time. From the evidence, it was not until the Eighteenth Century that buildings started to be developed on South End, and there is no evidence that would indicate that the burgage plots laid out along this road were as densely developed as those in the older part of the town. The CAA notes that this area has a more open character. I accept that the construction of the Auction Mart Car Park to the rear of the appeal site has truncated the burgage plots to the rear of the appeal building and its neighbour, and that this has altered the character of the area. However, this earlier erosion of the historic layout of the town does not justify further erosion of its historic character, which in this part of the conservation area consists of frontage buildings with open garden land to the rear. I saw that there are some small scale outbuildings within these garden areas but none of these are of a scale comparable to any of the dwellings proposed by the appeal scheme.

10. The proposed new dwellings would be screened behind the taller frontage buildings on South End and Bridge Street but would, nevertheless, be visible from the public car park to the north east of the appeal site and from that part of the riverside path that runs past the car park. From these vantage points, the appeal scheme would be perceived as an encroachment into the expansive open area to the rear of South End. This would be harmful to the character of the conservation area.
11. I have noted the Council's point that, whilst the proposed buildings would be constructed from materials that are similar to other surrounding buildings in the conservation area, details of the buildings, such as the proposed canopies over the front doors to Units 1 and 3 and the shape and glazing pattern of the windows are inconsistent with prevailing architectural approach of historic buildings in the town. I would agree with this assessment but do not consider that these details would be particularly noticeable from beyond the appeal site.
12. The appeal site is a long narrow plot that tapers towards its north east end adjoining the car park. The proposed development would occupy a large proportion of both the length and width of the site. This would particularly noticeable on the narrowest section of the site. Although the proposed dwellings would have amenity space provided, in the case of Units 2 and 3 much of this is narrow and the configuration would not be particularly useable as much of it would be across the frontage of the dwelling adjacent to the shared access path. The proposed dwellings would also be located extremely close to the common boundary with the adjacent building fronting Bridge Street. It is not wholly clear from the submitted drawings how the shared access path relates to the curtilage of the proposed dwellings although from the submitted drawings a series of new retaining walls would be required to both sides of the site to accommodate the terracing that is proposed to reduce the perceived height of the proposed dwellings. This heavily engineered approach would increase the perceived extent of built development on the site and, together with the proposed quantum of development relative to the shape and proportions of the site, would result in an appearance of the development being squeezed onto a constrained site that has had to be heavily modified to accommodate it. Although there is back land development on burgage plots elsewhere in the conservation area, none has adopted such a heavily engineered approach.
13. Although the appellant points out that the proposed development would have a lower density than the adjoining flats, and this is clearly the case, a purely

numerical density calculation is not necessarily an indication that the appearance of the resulting development is compatible with its context. The adjoining flats front onto a main route through the town and are similar in scale to the taller buildings that front Market Place and North End. I have also had regard to the appellant's comment that the donor property is in commercial use and that the appeal site is surplus to their requirements. Nonetheless, I saw that the land is well maintained and had every appearance of being a garden. This garden area contributes to the openness of the area.

14. The proposed development would therefore be inconsistent with, and harmful to, the character and appearance of the open area to the rear of the buildings on South End which provides its context.
15. The principal effect of the proposed development would be a spatial one in terms of the erosion of the open area formed of historic burgage plots that have remained open as garden areas to frontage buildings. This is identified in the CAA as a significant open area and characteristic of the area's medieval heritage. Whilst this would result to harm to the significance of the Conservation area, this would be localised to that part of the Conservation Area to the rear of the frontage buildings on South End. Consequently, the harm would be less than substantial.
16. The appeal proposal would not be consistent with the historic development form of the town and would result in less than substantial harm to the significance of the conservation area. Paragraph 196 of the National Planning Policy Framework (the Framework) requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset (in this case the Bedale Conservation Area), this harm should be weighed against the public benefits of the proposal.
17. The only public benefit that has been identified is that the appeal proposal would increase the supply of housing in the area and it is stated in the Design and Access Statement that the proposed dwellings would be low cost housing of a type identified as being required in the area. Whilst the Framework seeks to significantly increase the supply of housing, it is common ground that the Council can demonstrate a deliverable, five year, supply of housing land and there is no evidence that would support the assertion that the type of housing proposed is of a type that is particularly required. Consequently, the small increase in housing, whilst a benefit, can only be given moderate weight.
18. The Framework states that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether the harm is substantial or less than substantial. Whilst from the evidence, the conservation area is mainly of local importance, and the extent of the harm would be localised, as a minimum, great weight must be attached to any harm to the significance of the heritage asset. Whilst the proposed development has some public benefit in providing a small number of additional dwellings, the moderate weight that can be given to this would not overcome the great weight that has to be attached to the harm that would result.
19. I therefore conclude that the proposed development would cause harm to the character and appearance of the Bedale Conservation Area. It would not comply with the relevant requirements of Policies CP16 and CP17 of the Hambleton Core Strategy 2007 (the Core Strategy) and Policies DP28 and

DP32 of the Hambleton Development Policies Development Plan Document 2008 (the DPDPD) which, when read together, expect new development to be of a high standard of design that has regard to its historic context and local distinctiveness, and which protects or enhances conservation areas.

Highway Safety

20. The appeal site is located to the rear of existing buildings that front onto South End. It is adjacent to the principal commercial area of the town, which is centred on Market Place and North End. The site has no direct vehicular or pedestrian access to either South End or Bridge Street, although there is a common boundary with a public car park to the north east. South End is subject to a no waiting restriction, in the form of double yellow lines, from its junction with Bridge Street to approximately the boundary between numbers 9 and 11. On the opposite side of South End is an off street parking bay fronting numbers 4 to 18. Bridge Street is subject to a no waiting at any time restriction to both sides. There is public parking available on Market Place which is time limited between 08:00 to 18:00, Monday to Saturday.
21. The appeal proposal does not propose to make any provision for car parking and access to the site would be for pedestrians only from a gate to the adjacent public car park.
22. Core Strategy Policy CP2 seeks to ensure that new development is located where it would minimise the need to travel and would encourage the use of alternative modes of travel to the private car. I saw when I visited the site that there is a good range of shops and services available within a short distance of the appeal site. I also saw that there are regular bus services from Market Place to the towns of Northallerton, Masham and Leyburn. In this context, I do not find any conflict with the requirements of Core Strategy CP2.
23. DPDPD Policy DP3 expects new development to incorporate minimum levels of car parking commensurate with road safety, the reduction of congestion and the availability of alternative means of transport. The supporting text to this policy, which whilst not part of the policy sets out how it is expected to be implemented, states that within the district it is necessary to balance the need to achieve more sustainable patterns of development, and more sustainable forms of transport, with the largely rural nature of the district and the high level of car ownership within it.
24. The Highway Authority car parking standards set out that within market towns, such as Bedale, the minimum car parking provision for a new 2 bedroom dwelling is one parking space. Based on this, the proposed development would require three car parking spaces.
25. I accept that as a result of the location of the appeal site, the future occupiers of the proposed dwellings would not necessarily be dependent on use of a private car to meet their day to day travel requirements. There is also no evidence that visitor parking for the proposed development could not be accommodated within the nearby public car parking provision. Nevertheless, there is not invariably a direct correlation between car usage and car ownership, and the occupiers of the new dwellings may wish to own a vehicle even if it is not used on a regular basis, in order to make journeys that are either not possible or practical by other means. Whilst the absence of dedicated car parking may discourage certain potential occupiers, this is by no

means certain and no mechanism is proposed that would prevent the dwellings from being occupied by people who own and operate a vehicle.

26. I have had regard to the appellant's point in respect of the lack of car parking provision for the flats that are adjacent to the appeal site. However, I do not have the full details of the circumstances that led to these being accepted or the policy requirements that were in place at that time. I also note that the Highway Authority state that when this development was proposed there was an arrangement in place whereby parking for this scheme was to be accommodated within the adjacent Bridge Street car park. Consequently, I do not consider that this provides any justification for the lack of parking provision in the appeal scheme.
27. I have also noted the appellant's reference to Paragraph 106 of the Framework. This relates specifically to the circumstances in which the imposition of maximum car parking standards may be appropriate and not to car parking standards generally. As the Highway Authority standards are minimum requirements, I do not find any support for the proposal in this.
28. At the time of my site visit, the unrestricted car parking spaces in the vicinity of the appeal site were very well used and there were few, if any spaces available. I accept that this only represents a snapshot of the time that I was present in the area. Nonetheless, when I visited the site, restrictions in respect of Covid-19 were still largely in effect, with non-essential shops closed, homeworking was being encouraged, and non-essential travel discouraged. As a result, I consider that what I saw is very likely to be representative of typical peak on-street parking demand in the area. In contrast, and for similar reasons, the public car parks adjacent to the appeal site and at Bridge Street were very underused. I consider that this is very likely to be atypical, however, it does not alter my view that public parking provision could accommodate any visitor parking requirement generated by the proposed development.
29. Within this context, there is no certainty that the future occupiers of the proposed development would not own or use a vehicle and there are few opportunities to accommodate additional, longer term, parking in the immediately surrounding area. The proposed development would increase demand for the limited amount of unregulated parking nearby and would lead to competition for parking spaces. This would result in careless, opportunistic, or illegal parking that would lead to obstructions on the highways in the vicinity of the site, which are busy principal routes through the town, and be prejudicial to highway safety.
30. DPD Policy DP4 seeks to ensure that new development has safe and easy access for all potential users. From the supporting text to the Policy, this relates to ensuring development is designed in such a way that inclusive access to, into and within a building and its facilities, as well as appropriate car parking is provided. Whilst there are dedicated disabled car parking spaces within the adjacent public car park, these are some distance from the access point into the appeal site and, in any event, outside of the control of the appellant. Taken in isolation, this would not necessarily be a reason to withhold planning permission, nonetheless, it does add to my other concerns regarding the proposal.

31. I therefore conclude that, due to the lack of parking provision, the proposed development would be harmful to highway safety in the vicinity of the appeal site. It would not comply with the relevant requirements of Policies DP3 and DP4 of the DPD.

Living conditions

32. The appeal proposal would result in the construction of three dwellings positioned very close to the common boundary with a building fronting Bridge Street that has commercial units on most of the ground floor and residential accommodation on the upper floors. Due to a change in ground levels, this building is three storeys high at its south western end and rises to four storeys at the north eastern end. The north eastern bay of the building, which forms a return elevation to the public car park that also adjoins the appeal site, has residential accommodation on all four floors.
33. The proposed new dwellings would effectively be single aspect units, although units 2 and 3 would have a small opaque glazed window on the ground floor rear elevation. As a result, the proposed development would not overlook the properties to the rear.
34. The appeal site rises in level from the car park towards the rear of the buildings fronting South End. The north eastern part of the site is also at a lower level than the adjacent buildings fronting Bridge Street. In order to provide level access to the new dwellings, the submitted drawings show that the site would be terraced, with the result that parts of the new dwellings would be situated below the existing ground level of the site, reducing their perceived height.
35. There is presently a considerable amount of tall vegetation including some trees on or adjacent to the common boundary, which would be removed to facilitate the proposed development. This would make the development more visible from windows on the rear of the adjacent buildings which look towards the appeal site. Due to the relative positions of the existing and proposed buildings, the height of the proposed buildings, and the reduction in ground level of the appeal site, for the most part only the roofs of the proposed new dwellings, and the upper part of the walls of proposed Unit 1, would be visible above the existing boundary wall. Units 1 and 3 would be located sufficiently far from the windows in the neighbouring building that, whilst they would be visible from these, the visible portions would not appear unduly overbearing. Whilst the roof of Unit 1 would directly impinge on the view from two first floor windows in the neighbouring building, the appellant states that these serve a corridor and a bathroom. The internal layout of the neighbouring building is not verified by the evidence, but from what I was able to see from the appeal site, this assertion appears to be accurate.
36. Unit 2 of the proposed scheme would have a roughly L-shaped plan form with a higher element containing accommodation within the roof space. The roof ridge of this element would run roughly perpendicular to the wall of the adjacent existing building which contains a first floor window that would be located close to this higher element. The plane of this roof would be very noticeable in oblique views from this window. However, as it would not directly block this window, the effect would not be so significant that it would harm the living conditions of the occupiers of that room.

37. It is not argued that the proposed development would result in a loss of daylight to, or overshadowing of, the neighbouring existing building, and from what I saw during my site visit, I have no reason to find differently.
38. The appeal site runs parallel to a similar garden area located to the rear of number 9 South End. The upper floor windows serving the bedrooms of Units 2 and 3 would face towards this garden area. The appeal site and the garden of number 9 are separated by a tall hedge. Due to the effective reduction in height that would result from the terracing of the appeal site to accommodate the new dwellings there would only be a small level of casual overlooking of the neighbouring site. This would not significantly increase the degree of overlooking that currently occurs from large number of windows in the much taller building beyond the appeal site, and of itself would not be sufficient to warrant refusing planning permission on this ground.
39. I therefore conclude that the proposed development would not cause harm to the living conditions of the occupiers of the neighbouring residential properties, with particular regard to privacy and outlook. It would not conflict with the relevant requirements of DPDPD Policy DP1 that expects new development to adequately protect the living conditions of existing occupiers.

Other Matters

40. Numbers 11 and 13 South End are Grade II Listed Buildings that are located a short distance from the appeal site. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
41. There is no information in the parties' submissions regarding the significance of these buildings. However, I saw when I visited the site that these buildings are separated from the appeal site by the building at number 9 South End and its associated curtilage. Due to the degree of separation and the nature of the surrounding area, the proposed development would have a neutral effect on the setting of these listed buildings.

Conclusion

42. I have found that the proposed development would cause harm to the character and appearance of the Bedale Conservation Area and that, due to the lack of parking provision, the proposed development would be harmful to highway safety in the vicinity of the appeal site. As such the proposal would conflict with the requirements of Core Strategy Policies CP16 and CP17 and Policies DP3, DP4, DP28 and DP32 of the DPDPD. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. Although the Core Strategy and DPDPD predate the publication of the Framework, it is not argued that these policies, which are relevant to the determination of the appeal, are out of date. Whilst I have concluded that the proposal would not cause harm to the living conditions of the occupiers of neighbouring residential properties, this would not, of itself, overcome the other harm that I have found

or the conflict with other policies in the development plan. No other material considerations have been identified that would justify granting planning permission for a proposal that conflicts with relevant, up to date, policies in the development plan.

43. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR