



Appeal Decision

Site visit made on 10 August 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal Ref: APP/E2001/W/20/3245675

Ferncroft, Town Street, Shiptonthorpe YO43 3PE

- 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 M Slater, SSG Homes Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref: 19/01801/PLF, dated 28 May 2019, was refused by notice dated 1 August 2019.
 - The development proposed is construction of 2no dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site is referred to as both Ferncroft and Fern Croft in the appeal documents. For the avoidance of doubt, I have used the address as stated in the application form, Ferncroft, in the banner heading above and throughout the appeal decision.
3. I observed on site that a close-boarded timber fence has been erected immediately adjacent to the northern side elevation of Ferncroft which is not illustrated on the site plans as existing or proposed¹. The Council has confirmed that a planning application for the erection of a single dwelling within the space at the northern side of Ferncroft has been refused². Nevertheless, for the avoidance of doubt, I have determined the appeal on the basis of the submitted plans³.
4. As the proposal is in a conservation area and the setting of a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the site and local area, having regard to whether it would preserve or enhance the character or appearance of the Shiptonthorpe Conservation Area (SCA) and

¹ Site Plan as Existing-Streetscene Elevation, Drawing Number: SSG/2019/FC/01 and Site Plan as Proposed-Proposed Dwellings Drawing Number: SSG/2019/FC/02.

² Application Ref: 18/03881/PLF.

³ Drawing Numbers: SSG/2019/FC/01 and SSG/2019/FC/02.

whether it would preserve the setting of The Kennels, a Grade II listed building;

- Whether the proposal would provide adequate living conditions for occupiers of Ferncroft and the proposed dwellings, with regard to the provision of private amenity space and outlook; and,
- The effect of the proposal on the living conditions of occupiers of The Kennels, with regard to privacy.

Reasons

Character and appearance of the site and local area, including the SCA and the setting of The Kennels

6. The appeal site is located on the eastern side of Town Street within the village of Shiptonthorpe and the SCA. The SCA encompasses the linear ribbon development along Town Street and some of the properties on York Road which, the conservation area appraisal states, 'collectively were considered to represent the historic core of the village.'
7. The special interest and significance of the SCA is largely derived from the meandering street pattern of Town Street; the low density of development of mainly two-storey, detached or semi-detached houses set in reasonably sized plots with adequate spacing between them; the architectural coherence of its modest historic buildings built in the local vernacular of brick with pantile roofs; and the balance of the built and natural environments within a wider pastoral setting. These elements combine to give the SCA an informal, spacious, rural feel and pleasant verdant appearance which positively contribute to the area's local distinctiveness and sense of place.
8. The appeal site is a parcel of land which forms the side garden to the south of Ferncroft, a detached, single-storey property dating from the 1940s which, although set back and slightly set down from the highway, occupies a prominent position on Town Street. A single-storey garage is located on the southern boundary of the site. The land is bordered to the north by Ferncroft and its curtilage; to the west by Town Street; to the south by The Kennels and associated outbuildings; and, to the east by the private amenity space of The Kennels with open fields beyond.
9. The Kennels, a Grade II listed building, dates from the late 18th century. From the evidence before me, I consider that its age, modest form and use of traditional materials make notable contributions to its historical and aesthetic values and thus its special interest and significance. In addition, The Kennel's setting, particularly the space to the north which provides a spatial buffer that allows the building to be read and appreciated, makes an important contribution to its significance.
10. Ferncroft's plain exterior causes it to make a neutral contribution to the character and appearance of the SCA. Its side garden to the south, which forms the appeal site, currently has an overgrown and unmaintained appearance. Nevertheless, its open undeveloped quality, allowing long views out to the wider rural landscape, makes a positive contribution to both the character and appearance of the SCA and the setting of The Kennels.

11. The proposed development comprises the demolition of the existing garage and the erection of two, detached, single-storey (with bedrooms in the roof space) dwellings.
12. The proposal would introduce substantial built form into the spacious side garden of Ferncroft, harmfully infilling the majority of the width of the appeal site. The layout and lack of adequate separation between the proposed dwellings would cause them to appear cramped within the site and discordant in the street scene. This would be wholly out of keeping with the spatial characteristics and general pattern of development in the area and would detrimentally close off important views out to the countryside.
13. I acknowledge that the proposed dwellings would reflect the building line, height, form, design and materials of the immediately adjacent buildings and I note the varied form of more recent properties within the locale. Nonetheless, the proposed dwellings would not emulate the area's general quality of residential built form or make a positive contribution to its identified local character and distinctiveness. Moreover, the fact that they would be set back from the highway would not lessen their undue prominence or incongruity in the street scene when viewed from Town Street.
14. As a whole, the proposal would significantly undermine and harm the positive characteristics, appearance and integrity of the SCA. Furthermore, and notwithstanding that it would not obstruct direct views to The Kennels from Town Street, it would severely compromise the spacious aspect of The Kennels' setting which contributes to its significance.
15. Given the above, I find that the proposal would significantly harm the character and appearance of the site and local area. In doing so, it would fail to preserve or enhance the character and appearance of the SCA and would not preserve the setting of The Kennels, a Grade II listed building. In these respects, it would harm the special interest and significance of these designated heritage assets.
16. With reference to Paragraphs 195 and 196 of the National Planning Policy Framework (the Framework), in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given that the impact of the proposal would be limited to the immediate surroundings of Ferncroft, specific views within the SCA and part of the setting of The Kennels, I find that the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight.
17. Under such circumstances, Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The scheme would supply an additional two dwellings which, it is asserted by the appellant, would contribute to the overall mix of housing in the locality and provide a choice for people with mobility issues. Some economic and social benefits would be derived from their construction and occupation; and future occupiers would contribute to the local economy. These wider public benefits are reduced by the limited amount of development that is proposed but still, carry moderate weight in its favour.
18. However, in my judgement, this is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. As such, the

proposal would fail to satisfy the requirements of the Act and Paragraph 192 of the Framework.

19. In addition, the proposal would conflict with Policies H4, ENV1 and ENV3 of the East Riding Local Plan 2012-2029 Strategy Document adopted April 2016 (ERLP) that, amongst other things, require development to provide the optimum housing density which, in residential gardens, has no adverse impact on the character and appearance of the area; integrate high quality design; and, conserve the significance, views, setting, character, appearance and context of heritage assets. It would also not accord with Paragraphs 122 and 127 of the Framework which, amongst other things, seek to resist inappropriate development in garden areas and achieve well designed places.

Adequate living conditions for occupiers of Ferncroft and the proposed dwellings

20. As shown on the site plan as proposed, the main area of private amenity space for occupiers of Ferncroft would be on the northern side of the property, with smaller areas at the front and rear. Whereas the main areas of private amenity space for occupiers of the proposed dwellings would be at the front and rear of the properties.
21. On this basis, the proposal would leave adequate private amenity space for occupiers of Ferncroft. In addition, as there is only one secondary window on the southern side elevation of Ferncroft, even though the blank northern side elevation of one of the proposed dwellings would be in very close proximity, it would not diminish the overall outlook of occupiers of Ferncroft to a harmful degree.
22. However, the lack of depth of the appeal site, combined with the incorporation of car parking at the front and the substantial footprint of the proposed dwellings, would mean that the usable private amenity space at the rear would be deficient and certainly less than what could reasonably be expected by any occupiers of a three bedroomed property. Furthermore, I am not convinced that the limited fenestration within the proposed dwellings, particularly the use of rooflights for the bedrooms within the roof space, would provide a satisfactory level of outlook for any occupiers.
23. To conclude on this issue, the proposal would provide adequate living conditions for occupiers of Ferncroft, with regard to the provision of private amenity space and outlook. However, it would not provide adequate living conditions for occupiers of the proposed dwellings, with regard to the provision of private amenity space and outlook. This would conflict with Policies H4 and ENV1 (B.4) of the ERLP that, amongst other things, require development to provide the optimum housing density which, in residential gardens, has no adverse impact to the amenity of existing residents; and to integrate high quality design which has regard to the amenity of existing or proposed properties. It would also not accord with Paragraph 127 of the Framework insofar as it seeks to ensure high standards of amenity for existing and future users.

Living conditions of occupiers of The Kennels

24. The rear of the appeal site is immediately adjacent to the private amenity space of The Kennels and is bordered by a low timber fence. The proposal

would result in three properties and their rear curtilages backing onto this garden space.

25. Whilst the rear windows of Ferncroft and the proposed dwellings facing into this space would be on the ground floor, the height and form of the rear boundary treatment would permit a significant degree of overlooking. This would result in a reduced level of privacy by the occupiers of The Kennels and considerably lessen their enjoyment of the use of this space.
26. I am aware that a fence of up to 2m could be erected along the rear boundary of the appeal site without the need for planning permission, which would substantially mitigate any overlooking. However, given the deficient provision of private amenity space referred to above, a fence of this nature would be an excessively overbearing feature when viewed from the rear private amenity space and rear windows of the proposed dwellings. In turn, this would create an uncomfortable sense of enclosure and further reduce the outlook of any occupiers.
27. Accordingly, I conclude that the proposal would have a harmful effect on the living conditions of occupiers of The Kennels, with regard to privacy. This would be contrary to Policies H4 and ENV1 (B.4) of the ERLP referred to above. It would also not comply with Paragraph 127 of the Framework referred to above.

Planning Balance

28. I have found that the proposal would significantly harm the character and appearance of the site and local area. In doing so, it would fail to preserve or enhance the character and appearance of the SCA and would not preserve the setting of The Kennels, a Grade II listed building. It would also not provide adequate living conditions for occupiers of the proposed dwellings, with regard to the provision of private amenity space and outlook; and would have a harmful effect on the living conditions of occupiers of The Kennels, with regard to privacy. In these regards, there would be conflict with Policies H4, ENV1 and ENV3 of the ERLP.
29. These policies are consistent with the relevant aims and requirements of the Framework. Therefore, even considering the Framework's objectives of significantly boosting the supply of homes and the contribution that the development of small and medium sized sites can make, taken together, I attach substantial weight to these Policies and the harm that arises, in this case, from the conflict I have found with them.
30. As outlined above, the proposal would provide some benefits, which carry moderate weight in favour of the appeal. Although I have concluded that the proposal would provide adequate living conditions for occupiers of Ferncroft, with regard to the provision of private amenity space and outlook, a lack of harm in these regards weighs neutrally and does not amount to a consideration in support of the appeal.
31. Consequently, on balance, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Furthermore, there would be conflict with the identified development plan policies. As such, the proposal would not represent a sustainable form of development.

Other Matters

32. The appellant has highlighted that the private garden could be extended and developed under permitted development which would immediately erode the gap between Ferncroft and The Kennels and, therefore, is a fallback position. However, even if the appellant is correct in his assessment of the permitted development position, in the absence of any details of such a proposal, I cannot evaluate its effects in comparison to the appeal proposal before me. Moreover, there is no evidence that there is any greater than a theoretical possibility that such a development might take place or that it would be a realistic alternative to the appeal development. As such, I can only attach limited weight to this fallback position.
33. I note that no concerns were raised by The Land Drainage Team or Yorkshire Water and that, subject to the imposition of conditions, no objections were received from Highway Management and Humber Archaeology Partnership. However, these are neutral considerations and do not outweigh the harm that I have found.
34. Reference has been made to the grant of two previous outline planning applications in 1989 and 1992 for a dwelling in the garden area to the side of Ferncroft⁴. However, I have not been provided with any details of the granted schemes to allow any comparison with the appeal proposal. In any event, I have determined the appeal before me on its own planning merits and found harm.

Conclusion

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

F Cullen

INSPECTOR

⁴ Application Refs: 89/41314/OUT and 92/40712/OUT.