



Appeal Decision

Site visit made on 30 June 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/E2734/W/20/3252085

Land south of Ashmore, Quarry Lane, Harrogate HG1 3HX

- 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 Yunis Kiyak against the decision of Harrogate Borough Council.
 - The application Ref: 19/04662/FUL, dated 1 November 2019, was refused by notice dated 2 January 2020.
 - The development proposed is described as: New 2 bed dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. After the Council determined the planning application but before the appeal was submitted the Council adopted the Harrogate District Local Plan in March 2020 (the Local Plan). This superseded the previous policies of the Harrogate Core Strategy 2009 and the Harrogate District Local Plan 2001 that are cited on the decision notice. I have, therefore, determined the appeal using the most relevant policies of the current Local Plan, which are those identified as emerging policies on the decision notice.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the nearby trees covered by a Tree Preservation Order; and
 - Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to daylight

Reasons

Character and appearance

4. The appeal site consists of approximately 0.02ha of land to the north side of Quarry Lane. At this point Quarry Lane is a narrow lane running to the rear of two storey houses on North Lodge Avenue and is only wide enough for one

vehicle to pass at a time. The boundary of the site to Quarry Lane is formed by a combination of a weldmesh fence and a low timber fence with a mixed species hedge behind this. To the north of the appeal site, the land falls away sharply to the garden of a dwelling located within the former quarry. A group of Sycamore trees that are covered by a Tree Preservation Order are situated just beyond the northern boundary of the site at the point that the land level changes. Immediately adjacent to the appeal site there is a timber garage with a hardstanding formed of an aggregate material. Beyond this is a large brick built building set in a yard area. At the time of my site visit the appeal site was very overgrown with vegetation.

5. The immediately surrounding area is primarily residential in character with a small number of commercial premises present on Skipton Road. There are also two buildings in commercial use on Quarry Lane, a short distance to the west of the appeal site. The surrounding area is comprised of traditionally constructed buildings of a wide range of ages and architectural styles, built in a variety of materials including stone, brick, and render, with roofs finished in various colours of roof tiles, or slates.
6. Quarry Lane runs north from Skipton Road, along the rear of properties fronting Knox Avenue to the east, before turning sharply to the west at the point where the appeal site is located and following a winding route to join Ripon Road. To the south of this section of Quarry Lane are the rear elevations and rear garden areas of houses in North Lodge Avenue and Park House Green, which due to the topography of the area are generally set down below the level of the carriageway of Quarry Lane.
7. On the north side of Quarry Lane dwellings front onto the carriageway, generally set back from the carriageway behind front gardens or areas of hardstanding. A number of modern houses have been constructed within the former quarry that is located immediately to the north of the appeal site.
8. Local Plan Policy HP3 expects new development to be of a high standard of design that protects, enhances or reinforces the local distinctiveness of the district's urban environment, having regard to the built form and architectural characteristics of the area. The Policy allows for a departure from this approach where a proposal demonstrates design of exceptional quality which would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. The National Planning Policy Framework (the Framework) also seeks to ensure that new development is of a high standard of design that has regard to its context, and which improves the character and quality of the area in which it is located.
9. The proposed new dwelling is of a contemporary design that diverges significantly from the style of other buildings in the surrounding area. The appeal submissions did not include a Design and Access Statement and although I have been provided with two sheets of annotated photographs entitled Local Vernacular Analysis, which identify the materials and some architectural features and components of the surrounding area, there is nothing in these which sets out or explains the design rationale for the proposed new dwelling. The appellant's Statement of Case does not elaborate further on the design of the proposal merely arguing that as a result of the architectural diversity of the area, the visual effect of the proposal would be neutral. It is, however, clear from the evidence that the design of the building has at least in

part evolved in order to address constraints on the plot with regard to the presence of protected trees and to prevent loss of privacy or overlooking of existing dwellings to the south of the appeal site.

10. The submitted drawings show that the proposed new building would be built directly adjoining the edge of the carriageway and would occupy large proportion of site frontage. At this point the lane is visually and physically constrained by the boundary wall to the rear gardens of North Lodge Avenue. This, combined with the height of the proposed new dwelling and its proximity to the carriageway edge, would result in a significant perceived narrowing of Quarry Lane at a key visual point where the road bends sharply. I did see when I visited the site that there are other buildings nearby which are located close to the carriageway, however, none of these have walls located directly adjoining the carriageway edge.
11. Although stone is a commonly used material in buildings in the vicinity of the appeal site, the use of metal cladding on the walls and roofs of dwellings, as specified in the planning application, is not. This would appear as an alien feature alongside the more traditional building materials of nearby dwellings. The proposed asymmetric roof form would also be very different from the simpler pitched or hipped roofs in immediate vicinity. This would be particularly apparent as the gable ends of the building would be very visible due to the location of the building on the site and the configuration of the road.
12. I have noted that the appeal site would be larger than the plots occupied by some dwellings in the vicinity and comparable in area to others. I am also mindful that the Council has not raised any concerns in respect of the level of outdoor amenity space. Nonetheless, due to the positioning of the building at the very front of the site, immediately adjacent to the carriageway, and the length of the site frontage occupied by the building, much of the land to the rear would not be visible. This would lead to the proposed building having a cramped appearance on the plot, inconsistent with other dwellings in the area, and would exacerbate the perceived narrowing of Quarry Lane.
13. In contrast to the other dwellings on Quarry Lane, the front elevation of the proposed new dwelling would be relatively featureless except for the main entrance door and a slightly recessed central section below the clerestory window. I accept that this approach echoes the external appearance of the nearby commercial buildings, however, these do not make a positive contribution to the appearance of the area and are not the type of buildings that would justify the appeal proposal. Although the appeal site is currently overgrown, the construction of a building is not the only way its appearance could be improved if improvement were to be required.
14. In view of the above context, I find that the proposed new dwelling would be inconsistent with, and would be harmful to, the character and appearance of the area. There is no evidence in the appellant's submissions that would lead me to conclude that the appeal proposal represents a design of exceptional quality which would engage criterion E of Policy HP3.
15. My attention has been drawn to a previous planning permission for four garages on the site that was granted in 2005 and I am informed that this is still capable of being built out. No substantive details of this scheme have been provided with the appeal submissions and, due to the overgrown nature of the site, it was not possible to identify what works have been carried out to

implement this permission or where these garages would be located within the site. Consequently, I am unable to determine what the effect of this scheme may be and can give very little weight to this point.

16. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policy HP3 of the Local Plan. It would also be inconsistent with the relevant requirements of the Framework.

Effect on the protected trees

17. Policy NE7 of the Local Plan seeks to protect existing trees and sets out that proposals which would result in the loss of, or damage to, trees covered by a Tree Preservation Order will not be permitted, unless there is an overriding need for the development that outweighs the loss or harm and the development is location specific and cannot be located elsewhere.
18. A number of sycamore trees adjacent to the appeal site are covered by a Tree Preservation Order (TPO). Within the appeal site, there are an Apple tree and a Silver Birch which are not covered by the TPO. No information in respect of the protected trees was submitted with the original planning application. However, the appellant has submitted an Arboricultural Report (AR) and an Arboricultural Method Statement (AMS) with his appeal submissions. Whilst these were not available to the Council when it determined the application, the Council has had the opportunity to comment on these as part of the appeal process.
19. The AR identifies all of the trees on and adjacent to the site and plots the root protection areas (RPA) for these. The proposed new building would be outside the plotted canopy spread of all of the trees and would be outside the RPA of all except one tree (which is identified as T2 on the TPO plan and T8 in the AR). The AMS identifies that the proposed new building would result in the loss of 1.8% of the RPA for this tree.
20. Neither the AR nor the AMS assesses the effect of the proposed development on the protected trees. I have noted that an exploratory trench has been excavated within the part of the RPA that would be affected by the proposed new dwelling. This trench was still open at the time of my visit. Whilst there was no indication that there were structural roots within this trench, it is less clear whether feeder roots were present. Although the appeal proposal would affect only 1.8% of the RPA which, in itself, may not have a significant effect on the health of the protected tree, I saw when I visited the site that, immediately adjacent to the appeal site boundary, there is a garage and driveway which are located entirely within the RPA of the protected tree. The cumulative effect of this, together with the appeal proposal, has not been assessed.
21. In addition, the drawings submitted with the appeal indicate a patio area that is within the overlapping RPA of this tree and the Sycamore trees to the north of the appeal site. There are no details of the construction of this, nor has the effect of this on the protected trees been assessed.
22. Whilst I note that the AMS sets out tree protection measures and working methods that would be followed during the construction period, in the absence of any technical assessment of the effect of the proposed development on the

protected trees, I am not satisfied that it has been demonstrated that the proposal would not result in the loss of, or damage to, trees covered by a tree preservation order. In addition, no evidence has been put to me that would indicate that there is an overriding need for the development.

23. I therefore find that it has not been demonstrated that the proposed development would not cause harm to the nearby trees covered by a Tree Preservation Order. It would not comply with the relevant requirements of Policy NE7 of the Local Plan.

Living conditions of the future occupiers

24. It is common ground that the proposed new dwelling would provide suitable internal floor space and provides suitable private, outdoor, amenity space. The proposed building would be orientated with the principal windows facing north and, consequently, would receive little or no direct sunlight.
25. In respect of daylight, the appellant refers to a 'rule of thumb' that a window opening should be a minimum of 5% of the floor area of the room it serves. I have no reason to doubt the calculations provided by the appellant in this respect. However, there is no indication of the provenance of this rule of thumb or if it takes account of the environment surrounding a building, components immediately around the daylight openings, and the configuration of the interior spaces.
26. I saw when I visited the site, in the mid-morning on a bright day, that parts of the site were well lit. Nonetheless, beneath the canopies of the large trees beyond the site boundaries, the light levels were considerably lower. The submitted drawings indicate that the north wall of the proposed dwelling would be level with the canopy edge for approximately half its length and proximate to it for the rest. This will limit the amount of available daylight to the main north facing windows during those times of the year when the trees are in leaf. However, the main living space would also be lit by a clerestory window on the south elevation of the building and the bedrooms at each end of the house would have a full height, secondary, window in the side wall that would not be affected by the presence of the trees.
27. From what I saw when I visited the site, the proposed new dwelling would not receive high levels of natural light to the interior, but there is no substantive, technical, evidence from the Council that demonstrates that the levels of daylight would be so low as to make the proposed dwelling an unpleasant place to live. Neither the Framework nor Local Plan Policy HP4 set out any specific or measurable standards against which to assess internal light levels, referring only to providing a high standard of amenity and avoiding significant adverse impacts on the amenity of occupiers with regard to loss of light.
28. I therefore conclude that the proposed development would provide suitable living conditions for the future occupiers, with particular regard to daylight. It would not conflict with the relevant requirements of Local Plan Policy HP4 or the Framework, which seek to ensure that new development provides a good standard of amenity for the future occupiers.

Other matters

29. I have had regard to the fact that there are no objections to the proposal on highways grounds and that no concerns have been raised regarding the living conditions of neighbouring occupiers. However, these points do not overcome the other harm that I have identified.
30. Section 38(6) of the 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. I have found that the appeal proposal would cause harm to the character and appearance of the area and that it has not been demonstrated that it would not cause harm to the nearby protected trees. The proposal therefore does not comply with relevant policies in an up to date Local Plan.
31. Although I have found that the proposal would provide suitable living conditions for the future occupiers in terms of internal and external space and access to daylight this, in and of itself, is not a reason to grant planning permission, having regard to the other adverse effects that would be caused by the proposal.
32. The Framework is capable of being a material consideration and seeks to significantly increase the supply of housing. It is not in dispute that the Council is able to demonstrate a deliverable supply of housing land in excess of five years. Whilst this is a minimum and does not preclude granting permission for additional houses, the provision of just one additional dwelling would not overcome the harm that would result from the appeal proposal.
33. From the evidence before me, no other material considerations have been identified that would warrant granting planning permission for a proposal that conflicts with the development plan for the area.

Conclusion

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

John Dowsett

INSPECTOR