
Appeal Decision

Site visit made on 24 November 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2020

Appeal Ref: APP/N2739/W/20/3257905

Land at East End Cottage, Main Street, Thorganby

- 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 Swanhome Developments Ltd against the decision of Selby District Council.
 - The application Ref 2020/0197/FUL, dated 21 January 2020, was refused by notice dated 28 April 2020.
 - The development proposed is erection of single dwelling and detached garage with associated access, drainage and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address cited in the banner heading above is taken from the planning application form. It differs from that cited on the Council's decision notice, which omits reference to Thorganby. Based upon the submitted site location plan, I am satisfied that the address stated in the banner heading is correct.
3. The appeal site falls within proximity of several European protected habitats. A screening opinion has confirmed that an Environmental Impact Assessment (EIA) is not required. Nonetheless, I have a statutory duty as the competent authority to ensure that there are no adverse effects on the integrity of these sites. I will return to this matter later in my decision.

Main Issue

4. The main issue is the effect of the appeal proposal on the character and appearance of the area, including the setting of the Thorganby Conservation Area, with particular regard to positioning, scale and design.

Reasons

Character and appearance

5. The appeal site falls beyond the defined Development Limits. In policy terms the site is located within the countryside. These limits seek amongst other things to manage the visual effects of proposed development on the individual character of settlements and the countryside.

6. The appeal site is an undeveloped parcel of land, akin to paddock, which is set between existing buildings that define the outer extent of this part of the built-up form of the village. By virtue of its physical connection to the village, the appeal site is not isolated for the purposes of paragraph 79 of the National Planning Policy Framework (the Framework). Despite its narrow road frontage onto Main Street, this wedge-shaped site opens out to reveal a wider countryside backdrop. The linear pattern and more sporadic grain of the built-up form of this part of the village defines Thorganby's important semi-rural character and traditional appearance within a wider open countryside context.
7. Adjoining the Thorganby Conservation Area on all but one side means that the appeal site forms part of the setting of this designated heritage asset. The significance of this designated heritage asset is both architecturally and historically derived from its farming context. The significance of the setting of this part of the Conservation Area is attributed to the penetration of the surrounding countryside right into this part of the village. This makes a positive contribution to the informal, more intimate character and rustic appearance of the village.
8. The area's significance has been reflected in the design rationale set out in the Council's evidence for the 3 dwellings recently constructed on the adjoining land in terms of their scale, design and positioning. However, although it would be read as part of that building group, it is clear that the appeal proposal does not continue that approach in terms of scale and positioning, albeit there are some commonalities in terms of materials and design features.
9. The appeal proposal would be visible across the surrounding countryside from more distant vantage points along the main approach road. When advancing towards the site to exit the village, there would be some passing glimpses of the proposal between buildings. In terms of these views, the appeal proposal would be positioned in a manner that would allow its large scale and design to be read with the existing built mass of surrounding buildings. This would ease its visual presence.
10. More immediate opportunities to appreciate and understand the appeal site's contribution to the character and appearance of the area, including the setting of the Conservation Area exist in the vicinity of the site's access off Main Street. More prolonged, uninterrupted views across the appeal site are afforded from the adjacent public right of way. This historic route runs to one side of the appeal site and connects the village with its open countryside context. These vantage points reveal the appeal site's significant positive contribution to the area's important character and appearance.
11. Consequently, from these more localised vantage points, the appeal proposal would present itself as a substantial built feature in terms of its overall footprint, height and mass. It would be unduly intrusive within this important setting.
12. Moreover, in terms of positioning, the appeal proposal would consolidate the more sporadic form of this part of the village. Although it would be set within large gardens, overall, it would change the informal character of this site into one of formal domestic use. These changes would significantly erode the important character and appearance of the area that I have identified.

13. It has been advanced that the appeal scheme would better utilise under-used land. However, this site has an important role to play in providing a setting that helps define the character and appearance of the area. The appeal proposal would impede the site's ability to continue to positively contribute to its wider important context.
14. For these reasons, the appeal proposal would be harmful to the character and appearance of the area, including the setting of the Thorganby Conservation Area, with particular regard to positioning, scale and design. Consequently, the appeal proposal would neither conserve nor enhance that designated heritage asset. The harm to the Conservation Area would be less than substantial. This would represent a harmful effect, adversely affecting the significance of the Conservation Area.
15. The appeal proposal would have potential to contribute to the overall housing land supply in the District and provide some associated economic benefits. However, as the scheme relates to one dwelling, these benefits would be very modest. These public benefits would not out-weigh the harm that I have found to the Thorganby Conservation Area. The appeal proposal therefore does not accord with the Framework in this regard.
16. Policy SP2 of the Selby District Core Strategy (October 2013) (the Core Strategy) seeks amongst things to safeguard the character of individual settlements. However, the appeal proposal does not represent any of the specific circumstances for supporting new development in the countryside. Policy SP18 of the Core Strategy seeks to sustain the setting of areas of acknowledged importance. Policy SP19 of that plan expects regard to be had to local character and identity including historic townscapes, settlement patterns and open countryside.
17. Saved Policy ENV1 of the Selby District Local Plan (February 2005) (the Local Plan) seeks good quality design in terms of layout, design and materials in relation to the site and its surroundings. It also seeks to avoid the potential loss or adverse effect on features that are important to the character of the area. Saved Policy ENV25 of that plan permits development where it would preserve and enhance the character and appearance of the Conservation Area. In particular the scale, form, position and design must be appropriate to the historic context and the setting of the area or significant views into or out of it should not be adversely affected.
18. Given the identified harm, the appeal proposal would conflict with these policies.
19. In view of the harm to the setting of the Thorganby Conservation Area, the appeal proposal would neither preserve or enhance the character or appearance of that designated heritage asset. This is contrary to the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the development plan. This weighs significantly against the appeal proposal.

Other Matters

20. In terms of the housing related policies which the appellant advances are most important to the determination of this appeal and are out-of-date, I have had

regard to an appeal decision¹ which they have submitted. Nonetheless, the appellant has not adequately demonstrated any current shortfall in housing delivery or the absence of a deliverable 5-year Housing Land Supply that would lead me to reject the Council's stance on this matter.

21. Although the Core Strategy does not specifically require villages such as Thorganby to accommodate additional growth through allocations, the development plan particularly through Policy SP2 of the Core Strategy does allow for some limited organic growth. The absence of a housing allocations plan does not render these housing related policies to be out-of-date. Furthermore, Policy SP2 makes provision for some specific circumstances for new development in countryside locations. This policy is not inconsistent with the Framework to any degree that would reduce the weight that could be afforded to it.
22. Moreover, it is well established through case law² that the mere age of a policy does not cause it to cease to be part of the development plan. Where a Council is able to demonstrate that with current saved housing policies in place it has the requisite five year supply, this tends to show that there is no compelling pressure by reason of unmet housing need which requires those policies to be overridden. For all of these reasons, the tilted balance set out in paragraph 11 of the Framework is not triggered in this instance.
23. The submitted Preliminary Ecological Appraisal has concluded that this undesignated site is of limited ecological value and on-site enhancements could be secured by a planning condition. The Council has endorsed these findings. I have no reason to dispute that assessment. Consequently, subject to an appropriately worded planning condition, the appeal proposal would not be harmful to any on-site nature conservation interests.
24. Saved Policy ENV1 of the Local Plan requires that account is taken of any adverse effect on wildlife habitats. Policy SP18 of the Core Strategy seeks to ensure that development produces a net gain in biodiversity. There would be no conflict with that policy. This weighs in favour of the appeal proposal and would attract some weight. However, even when combined with the modest benefits I have already identified in respect to housing land supply and the local economy, the identified harm and subsequent conflict with the development plan would not be out-weighted.
25. Given the appeal site's relationship with a number of European designated sites, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 would require an Appropriate Assessment to be carried out. However, as I find that the development is unacceptable for the reasons set out above, there is no need for me to carry out such an Assessment.

Conclusion

26. For the reasons given, the appeal should be dismissed.

C Dillon

INSPECTOR

¹ APP/N2739/W/16/3144900

² Gladman Development Limited Appellant vs Daventry District Council and the Secretary of State for Communities and Local Government [2016] EWCA Civ 1146