



Appeal Decision

Site Visit made on 16 November 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref: APP/W9500/W/21/3279025

Land east of Meadow Barn, Westgate, Thornton le dale, YO18 7SG

- 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 A & D Sturdy Ltd against the decision of North York Moors National Park Authority.
 - The application Ref NYM/2021/0335/FL, dated 28 April 2021, was refused by notice dated 24 June 2021.
 - The development proposed is the construction of single storey dwelling with attached garage, access and associated amenity space.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of single storey dwelling with attached garage, access and associated amenity space at Land east of Meadow Barn, Westgate, Thornton le dale, YO18 7SG in accordance with the terms of the application, Ref NYM/2021/0335/FL, dated 28 April 2021, subject to the conditions in the Schedule attached to this Decision.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording, matching that used on the Decision Notice has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed.
3. However, as both parties have used this description in their submissions, and it is a much clearer description of the development proposed, I have used it in my heading above.
4. Although the Decision Notice focuses on the effects of the proposal on the setting and significance of the nearby listed building, both parties have also considered the effect on the Conservation Area in their submissions. For clarity, I have done the same in my decision.

Main Issues

5. The main issues are:

- the effect of the proposal on the setting and significance of the designated heritage assets,
- the relationship of the proposal to the site of a, now lost, protected tree, and
- whether the proposal would be compatible with the purposes of the National Park (NP).

Reasons

Heritage assets

6. Hallgarth Farmhouse is a Grade II listed stone-built farmhouse to the west of the appeal site, with an attached range of former farm buildings to the front, now converted to a separate dwelling. It is one of a number of former farmsteads along the road, but the Authority notes that it is unique in having its outbuildings set along the road frontage, with the farmhouse perpendicular to the rear. The listed building is set within reasonably large grounds. Strong boundary hedging separates it from the appeal site and a recent development to the south, giving the building an immediate setting which to my mind is contained almost entirely within its own site boundary.
7. In my view, the obvious location of the listed building, on the edge of the village, but surrounded by more recent development which plainly post-dates the agricultural function of the listed building complements the setting and significance of the listed building as a farmhouse and associated buildings, the original location and function of which have been overtaken by more recent development and the passage of time.
8. Whilst the Authority notes a number of features which contribute to the significance of the listed building as a heritage asset, it places great weight on the contribution of the appeal site to its setting, as one of the last remaining fields or paddocks around the farmhouse which emphasise its historic and pastoral character.
9. However, it is clear from visiting the site, Westgate, Maltongate and Station Road that whilst the listed building is very plainly agricultural in origin, subsequent growth of the settlement, including recently to the immediate rear, has fundamentally altered the character of its wider setting.
10. The site does make some contribution to the wider setting of the listed building, insofar as it is an open field next to a former farmhouse and its associated buildings. However, I consider that the particular character and appearance, both of the listed building, its immediate setting, the wider setting and the boundary with the appeal site all limit the value of the appeal site to its setting as a whole.
11. As noted, the village has grown around and beyond the listed building, particularly along Maltongate and Station Road, eroding the obvious spatial connection between the listed building and the rural, agricultural landscape beyond. More recent development immediately to the rear of the listed building, accessed from Hallgarth Lane has, to my mind, further eroded this

connection, effectively severing the listed building from that open, agricultural countryside.

12. An argument could be made that this makes the appeal site more important to the setting of the listed building, as the last remaining field or paddock close to the farmhouse. However, given the strong sense of separation between the site and the listed building, engendered by the height and thickness of the boundary, I am not convinced by such an argument. My conclusions on this point are reinforced by the distinction I find between the immediate and wider setting to the listed building.
13. Whilst development of the site would lead to development of the last remaining open field close to the listed building, as noted above, the space immediately around the listed building itself would be unaffected, and I do not consider that development of this site would be any more harmful to the setting of the listed building as a whole than development which has taken place to the other side of it, or more recently, to the rear of it.
14. Given the scale, form and materials of the proposal, my comments above and giving great weight to the heritage asset's conservation, I therefore consider that the proposal would have a neutral effect on the significance of the listed building as a heritage asset. Having paid special regard to the desirability of preserving the setting of the building, I am satisfied that it would not harm that setting.
15. In reaching this conclusion, I note that the setting of this listed building has been at issue in other appeals for development around it and that there has been no substantive policy change since then. However, whilst I note the importance of consistency in appeal decisions and for like cases to be decided in a like manner it is also important that each case is determined on its own merits and on the basis of the evidence, particularly in relation to matters of setting, which relate to character and appearance. This has, in this case, been plainly altered by other development around the listed building.
16. Turning to the Conservation Area (CA), whilst neither the site nor the listed building lies within it, the opposite side of Westgate does. Whilst the listed building makes a positive contribution to the setting of the CA, the appeal site makes a neutral contribution. As I have set out above, whilst the open nature of the appeal site does hark back to an earlier time, before the growth of the settlement overtook the rural location of the listed farmhouse and moved the boundary between the settlement and the countryside further south, I do not consider that it is so crucial to the appreciation of the history and growth of the village that it should remain undeveloped.
17. Given, as I have noted above, the use of appropriate scale, form and materials, I am satisfied that although the proposal would alter the setting of the CA, having regard to the great weight to be given to the conservation of the CA as a heritage asset, I am satisfied that the proposal would not harm its significance.
18. Overall, I therefore find that the appeal site does make a historic and visual contribution to the setting of the listed Hallgarth Farm. However, it is not so vital to this, nor is the listed building so sensitive and reliant on the appeal site to protect and provide its setting, significance and appreciation of the same that an appropriate, sympathetic development, as proposed here would

seriously harm its setting or significance. Nor would it harm the setting or significance of the adjacent CA.

19. The proposal would preserve the linear nature of development along Westgate, respecting the local vernacular, maintaining the varied roof height, and relatively low-density nature of development fronting the southern side of Westgate, retaining and emphasising the historic, agricultural and pastoral character, whilst acknowledging the expansion of the settlement beyond this former boundary between the settlement and agricultural land beyond.
20. I note particular concerns over the effect of the proposal on views of the listed building from the CA. Whilst the proposal would alter these views, I do not consider that such a change would be harmful. Owing to the separation and the level changes Hallgarth Farmhouse and Meadow Barn would still be visible, and for the reasons given above, an appreciation of their setting, significance and character would still be achieved from views within the CA.
21. I therefore find that the proposal would comply with Strategic Policy I, Policy ENV9 and Policy ENV11 of the North York Moors National Park Authority Local Plan, July 2020 (the Local Plan). These policies seek, amongst other things, to ensure that development affecting the historic environment should conserve it in a manner appropriate to its significance, particularly where affecting vernacular buildings and the layout of the historic built environment, the historic landscape, the relationship of farmsteads to the surrounding agricultural landscape and where the form and distinctive qualities of historic settlements could be affected by development proposals.
22. The proposal would also comply with guidance in the National Planning Policy Framework (the Framework) on conserving and enhancing the historic environment.

Tree

23. Prior to the making of the appeal application, a large, protected tree stood on the site. It is beyond doubt that the tree is no longer on the site, and parties agree that it fell during a storm. Despite this, the Authority has presented evidence to attempt to suggest that the appellant could have done more to protect the tree in the years leading up to its loss.
24. None of that is strictly relevant to this appeal. Nor do I consider that the proposed residential development of the site is incompatible with any duty under relevant legislation around replacement tree planting.
25. There is no agreement between the parties as to whether a replacement is required given the previous tree was lost during a storm rather than through a deliberate act, and it is not my role in this appeal to settle that issue. In any event, there is also no suggestion that a tree replacement notice has been served, a replacement tree would not necessarily be protected by the same Tree Protection Order as its predecessor, and an application for planning permission, such as the one before me, could supersede any such Order.
26. Despite all of that, at present, there is no tree on the site, and both the application and the suggested conditions include provision for a tree to replace that lost in a storm and to ensure its retention.

27. Given the above, I am satisfied that the proposal has an appropriate relationship to the site of a, now lost, protected tree, and it would comply with Strategic Policy E and Policy ENV1 of the Local Plan. These policies seek, amongst other things to ensure that development does not have any unacceptable impact on the natural environment, and that appropriate replacement planting is undertaken in the face of unavoidable loss of trees of value.

The National Park

28. The two key purposes of the NP are to conserve and enhance the natural beauty, wildlife and cultural heritage, and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public. These purposes are enshrined in the Local Plan and reinforced in the Framework which requires that great weight be given to conserving and enhancing landscape and scenic beauty in NPs.
29. The site is clearly located within the settlement and is now well within the built area. The village has evolved over time, with the immediate surroundings and setting of the site taking on a more built-up form, severing the listed farmhouse and the CA from the open, rural, agricultural landscape beyond. However, to my mind, none of this fundamentally alters the natural beauty, landscape and scenic beauty of the NP or harms its cultural heritage. The agricultural past of the site, its setting and the settlement would not be lost or otherwise harmed by the proposal, the scale and effect of which is necessarily limited by the size of the site.
30. Taking that together with my conclusions of the effect of the proposal on the setting and significance of the heritage assets, and on the site of the protected tree, I am satisfied that the proposal overall complies with these statutory and policy aims.

Conditions

31. The Authority has suggested a number of conditions to be attached, should planning permission be granted. Having had regard to the requirements of the National Planning Policy Framework and the Planning Practice Guidance (PPG) I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2).
32. Conditions 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 19 are necessary to ensure the satisfactory appearance of the completed development. Condition 15 is necessary to ensure that ecological mitigation measures are carried out, and conditions 16 and 17 are necessary to ensure that means of access, parking and manoeuvring are appropriately provided, maintained and retained. Condition 18 is necessary to ensure that the development can be carried out without harm to the amenity of the surrounding area.
33. Paragraph 54 of the Framework and the PPG presume against the use of planning conditions to restrict national permitted development rights unless there is clear justification to do so. However, given the sensitive location of the site, both in terms of the immediate surrounding heritage assets and the wider context of the settlement and the NP, I am satisfied that condition 3, which removes specified permitted development rights meets the tests of reasonableness or necessity.

34. I have removed tailpieces and their equivalents from the suggested conditions as they are inappropriate and can bypass other statutory processes. The appellant has confirmed that they have no objection to the terms of the pre-commencement conditions proposed by the Authority. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development. Therefore, I am satisfied that the conditions meet the tests in, and requirements of both the Framework and the PPG.

Conclusion

35. For the reasons given above I conclude that the proposal accords with the development plan and I find that there are no material considerations which indicate that a decision be taken other than in accordance with it.

36. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out other than in strict accordance with the following documents: Site Location Plan, Street Elevation & Site Plan 2028-403, Proposed Floor Plan & North Elevation 2028-401, Proposed Elevations 2028-402.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking and re-enacting that Order), no development within Schedule 2, Part 1, Classes A to H Schedule 2, Part 2, Classes A to C and within Schedule 2 Part 40 Classes A to I of that Order shall take place without a further grant of planning permission being obtained from the Local Planning Authority.
- 4) No work shall commence on the construction of the walls of the development hereby permitted until a one metre square freestanding panel of stonework showing the type of stone and stonework to be used in the construction of the development hereby permitted has been constructed on site and approved in writing by the Local Planning Authority. All new stonework shall match that of the approved panel both in terms of the stone used and the coursing, jointing and mortar mix and finish exhibited in the panel. The stone panel constructed shall be retained on the development site until the development hereby approved has been completed.
- 5) No work shall commence on the construction of the walls of the development hereby permitted until details of the brick, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The brick used shall accord with the approved details and shall be maintained in that condition in perpetuity.
- 6) The roof of the development hereby permitted shall be clad with traditional, non-interlocking, non pre-coloured natural red clay pantiles and shall be maintained in that condition in perpetuity.
- 7) All new window frames, glazing bars, external doors and door frames shall be of timber construction and shall be painted a colour first agreed in writing with the Local Planning Authority. The work shall be completed in accordance with the approved details within six months of being installed and shall be maintained in that condition in perpetuity.
- 8) No work shall commence on the installation of any windows or external doors (and glazing if included) in the development hereby approved until detailed plans showing the constructional details of all window frames and external doors to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Such plans should indicate, on a scale of not less than 1:20, the longitudinal and cross-sectional detailing including means of opening. The window frames and external doors shall be installed in accordance with the approved details and shall be maintained in that condition in perpetuity.

- 9) The external face of the frame to all new windows shall be set in a reveal of a minimum of 100 mm from the front face of the adjacent walling and shall be maintained in that condition in perpetuity.
- 10) Trickle vents shall not be incorporated into any new windows hereby approved and shall not be installed thereafter.
- 11) No work shall commence on the installation of any rooflights in the development hereby approved until full details of the proposed rooflights have been submitted to and approved in writing by the Local Planning Authority. The rooflights shall be conservation style rooflights and shall be installed in accordance with the approved details and maintained in that condition in perpetuity.
- 12) The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilised in the development and shall thereafter be so maintained in that condition in perpetuity.
- 13) All flues associated with the proposed development shall be coloured matt black and maintained in that condition in perpetuity.
- 14) The dwelling hereby approved shall not be first occupied until full details of the hard surfacing and boundary treatment to be utilised on the site have been submitted to and approved in writing by the Local Planning Authority, including a timetable to implement the proposed works. The hard landscaping works and boundary treatment shall then be implemented in accordance with the approved details and shall be maintained in perpetuity.
- 15) The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the submitted Preliminary Ecological Appraisal by Wold Ecology Ltd dated February 2021.
- 16) The dwelling hereby approved shall not be first occupied until the access to the site as shown on the approved drawing reference 2028-403 has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:
 1. The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E60;
 2. Any gates or barriers must be erected a minimum distance of 2 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
 3. The final surfacing of any private access within 2 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
 4. Measures shall be provided to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.

- 17) No dwelling must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times. The dwelling hereby permitted shall not be occupied until the related parking facilities have been constructed in accordance with the approved drawing reference 2028-403. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 18) No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 1. Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 2. The parking of contractors' site operatives and visitor's vehicles;
 3. Areas for storage of plant and materials used in constructing the development clear of the highway;
 4. Details of site working hours;
 5. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
- 19) A replacement tree shall be planted, in a location to be agreed, no later than the first planting season following the occupation of the dwelling or completion of the development, whichever is the sooner, in accordance with a programme agreed by the Local Planning Authority. The replacement tree to be maintained in perpetuity.

End of Schedule of Conditions.