



Appeal Decision

Site visit made on 15 November 2021

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2021

Appeal Ref: APP/E2734/W/21/3282778

Littlethorpe House, Pottery Lane, Littlethorpe HG4 3LW

- 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 Vivien Hare against the decision of Harrogate Borough Council.
 - The application Ref 20/03674/FUL, dated 24 September 2020, was refused by notice dated 16 March 2021.
 - The development proposed is erection of a two storey dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the proposal on the setting of Littlethorpe House, a Grade II listed building; and
 - The effect of the proposal on the living conditions of existing occupiers at Garth Lodge with specific reference to daylight and sunlight;
 - The effect of the proposal on the living conditions of existing occupiers at Littlethorpe House and future occupiers with specific reference to privacy; and
 - Whether the development would be safe in respect of the stability of the land.

Reasons

Effect on the setting of Littlethorpe House

3. The setting of a heritage asset is defined in the National Planning Policy Framework (the Framework) as the surroundings in which the heritage asset is experienced. Elements of the setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
4. The appeal site is situated within the walled garden of Littlethorpe House, a Grade II listed building. The building is a large, two-storey detached dwelling set within substantial grounds. The Historic England listing description identifies the house as late 18th Century, rendered with a purple slate roof. The front elevation has vertically proportioned, sliding sash windows and a central

glazed doorcase with pilasters and triangular pediment. The rear elevation comprises of a formal entrance with a central doorcase with pilasters and five sliding sash windows. The right return is a service wing of 2 bays. An extension to the service wing has been carried out.

5. The building is set within substantial grounds including a formal walled garden to the front and side, a walled courtyard to the rear and another walled garden comprising a tennis court beyond the courtyard. The boundary wall with piers, gates and railings which runs along the west boundary is also Grade II listed.
6. It is a fine example of a late 18th Century house of some status. The level of architectural detailing as set out in the listing together with the setting of the building in substantial formal grounds reflects the historical status of the house in the village. A former stone coach house lies adjacent to the northern boundary which has a strong functional and visual link with the main house.
7. The walled courtyard and gardens are an integral part of the history of the property, reflecting the status and importance of the property. Furthermore, they create a sense of space for the listed building to be appreciated and contribute to the experience of the heritage asset as a whole. These factors all contribute to the significance of the listed building.
8. The proposed dwelling would be situated to the east of the host property, set within the walled curtilage of the listed building. It would be accessed by a gate which fronts onto Pottery Lane and would occupy an area which is currently used for parking. It would be a substantial two storey, 5-bedroom (and nursery) property rendered to match the host property with a natural slate roof. The roof would have a shallow pitch and would be set behind a parapet. Architectural detailing would reflect that of the host property.
9. The Council has not raised concerns regarding the impact of the proposal on the setting of the part of the walls which are Grade II listed. From everything which I have seen in submissions and on my site visit; I have no reason to disagree.
10. The roof of the proposal would be lower than that of Littlethorpe House, but it would be above eaves height of the right return. It would occupy a substantial footprint and would be significantly larger than the Coach House. According to the Council's figures, it would be around 43% deeper and 85% wider than the Coach House. These figures not been disputed by the appellant.
11. The proposal would not have a direct physical impact on the listed building or the listed garden wall. Nevertheless, it would introduce a principal dwelling within an area that is free from buildings other than the coach house. Due to the scale and formality of the design, the proposal would challenge the primacy of the listed building and disrupt the architectural hierarchy of the listed building and the coach house which is clearly subservient to Littlethorpe House.
12. I acknowledge that the substantial formal gardens would remain; however, the walled courtyard is an integral part of the history of the property where coaches and guests to the house would arrive. Due to the location of the courtyard, the proposal would significantly reduce the sense of space at the rear of Littlethorpe House which would materially harm its setting. The proposal would, therefore, have a serious, harmful effect on the setting of Littlethorpe House. Whilst serious, this harm would be less than substantial.

13. Accordingly, the proposal conflicts with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) act 1990, which must be given considerable importance and weight and with the Framework. Paragraph 132 of the Framework confirms that significance can be harmed or lost through development within the setting of a heritage asset. It would also be contrary to Policy HP2 of the Harrogate District Local Plan (Local Plan) (2020) which requires that proposals which affect a heritage asset, or its setting, protect or enhance those features which contribute to its special architectural or historic interest. Harm to elements which contribute to the significance of a designated heritage asset will be permitted only where this is clearly justified and outweighed by the public benefits of a proposal.
14. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Paragraph 202 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
15. The Council has indicated that it has a five-year supply of housing land; a matter not disputed by the appellant. The proposal would make a contribution, albeit limited, to housing land supply. It would also have some economic benefits in the short term during the construction phases and in the longer term as residents may help to support local services. However, these public benefits would not outweigh the serious harm I have identified to the setting of the listed building.

Living conditions-existing and future occupiers

16. The side elevation of the proposed dwelling would face towards a single-storey off-shoot of Littlethorpe House which is used as a bedroom and has a window facing the courtyard. The side elevation would have four windows serving habitable rooms. Two ground floor glazed double doors would serve the lounge and the upstairs windows would serve bedrooms. These windows would directly face the bedroom window of Littlethorpe House at a distance of around 4m. The mutual overlooking would have a harmful effect on the privacy of existing occupiers of the host property and future occupiers of the proposal.
17. It has been suggested that a 1.8m wall could be erected to prevent any mutual overlooking. However, this wall is not shown on the plans and any such wall would in any event present a blank elevation to the existing bedroom window and windows on the side elevation of the appeal proposal. The wall would also need to be considered in terms of the effect on the setting of the listed building. I note the appellant's suggestion to obscure the first-floor bedroom windows; however, this would not address the issue of the ground floor windows.
18. For the reasons stated, the proposal would have a harmful effect on the living conditions of existing and future occupiers with specific reference to privacy. The proposal would, therefore, be contrary to Policy HP4 of the Local Plan

which seeks to ensure that development proposals do not result in significant adverse impacts on the amenity of occupiers and neighbours.

Living conditions-existing occupiers-Garth Lodge

19. Garth Lodge is an extended bungalow which lies to the east of the appeal site immediately beyond the boundary wall. It has a garage and a sunroom to its west side, in close proximity to the boundary wall. A pond and patio area extend beyond the sunroom facing south.
20. The proposed dwelling would be situated around 5.6m from the boundary at its nearest point and would be around 6.6m high. The Council have utilised the 25-degree rule from the publication 'Site Planning for Daylight and Sunlight'¹, however, this is usually used when the new development directly faces the development. The 45-degree method advocated by the appellant is more usually utilised where the nearest side of an extension is at right angles to a window. Neither of these methods are particularly suited to the specific circumstances of this case and so a degree of judgement is necessary.
21. The Council is concerned that the proposal would result in overshadowing of the garden area. It acknowledges that even with the proposed development it would meet the requirement set out in the Site Planning for Daylight and Sunlight document for gardens to receive at least two hours of sunlight on 21 March. The Council are concerned, however, that the proposal would increase the extent of over-shadowing of the garden area.
22. The garden of Garth Lodge is south to south-east facing and so receives a good amount of daylight and sunlight at present. There will be a degree of over-shadowing of the pond/patio area in the early evening currently, due to the existing 3m high wall. The rear elevation of the proposal would not extend beyond the rear elevation of Garth Lodge. However, it would be higher than the existing wall by around 3m and so would increase the degree of overshadowing. However, due to the orientation of the property this would only occur early to mid evening. The property would continue to receive good levels of daylight and sunlight for the majority of the day. Consequently, I do not consider that the proposal would have a materially harmful effect on the living conditions of the occupiers of Garth Lodge.
23. For the reasons stated, the proposal would not harm the living conditions of existing occupiers in terms of daylight and sunlight. It would not, therefore, be contrary to Policy HP4 of the Local Plan in this specific regard.

Land stability

24. The appeal site is situated on land within Ripon Gypsum Area C, the highest area of risk of land instability arising from gypsum dissolution. Gypsum is present at relatively shallow depth and potentially susceptible to dissolution by flowing groundwater and where natural underground cavities relating to gypsum dissolution have formed. Policy NE9 includes specific reference to the issue of 'Gypsum Related Subsidence in the Ripon Area' and sets out that in Zone C a ground stability report and declaration form signed by a Competent Person will normally be required before a planning application for development such as that the subject of this appeal can be determined.

¹ Building and Research Establishment

25. Normally such a report would need to be based on both a geotechnical desk study and site appraisal and a programme of ground investigation designed to provide information needed for detailed foundation design. No investigation has been undertaken nor have I been provided with any ground stability report which would demonstrate that there is foreseeable instability or that the effects of such instability can reasonably be overcome. Consequently, there is no cogent evidence which would demonstrate that the site could be developed without risk to future occupants. Given the potential risk, I would not be prepared to leave the acceptability of the matter to be determined by way of planning condition.
26. For the reasons stated, I conclude that the development would result in an unacceptable risk to safety in respect of the stability of the land. It would, therefore, be contrary to Policy NE9 of the Local Plan which seeks to ensure that development can be safely undertaken and that there are no significant risks of instability over the lifetime of the development.

Planning balance and conclusion

27. I have concluded that the proposal would not harm the living conditions of existing occupiers at Garth Lodge; however, this is a neutral factor in this case. I acknowledge that the proposal would have some benefits as outlined at paragraph 15 above; however, these would not outweigh the serious harm which I have found in terms of the effect of the proposal on the setting of the Grade II listed building and the harm to the living conditions of existing occupiers at the host property and future occupiers. The proposal would, therefore, be contrary to the development plan as a whole. There are no material considerations which would indicate a decision other than in accordance with the development plan.
28. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector