



Appeal Decision

Site visit made on 29 March 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2022

Appeal Ref: APP/G2713/D/22/3290054

Ober Green Farm North, Champion Lane, Hutton Rudby, Yarm TS15 0DX

- 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 Keith Howard against the decision of Hambleton District Council.
 - The application Ref 21/02074/FUL, dated 22 August 2021, was refused by notice dated 8 December 2021.
 - The development proposed is described as retrospective application for the construction of a garden shed to rear courtyard of the dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A shed was in place at the time of my site inspection which reflects the submitted drawings and photographs. As this is what the appellant sought through his planning application, the appeal proceeds on this basis.
3. Since the Council reached its decision a new development plan known as the Hambleton Local Plan ("the Local Plan") has been adopted. The Council has confirmed that the policies cited in the decision notice have been superseded by Policies E1 and E2 of the new Local Plan. The main parties have been given the opportunity to comment on the implications of this change in circumstances for this appeal. My decision is based on this updated policy basis.
4. The submitted evidence confirms that the appeal proposal falls within the setting of a group of buildings with Grade II Listed status. The main parties have had an opportunity to address this matter accordingly through the appeal. Although the Council has found no harm in this regard, as the decision maker I must still have regard to the provisions of section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 ("the Act") in reaching my decision. This means that in determining this appeal, I must have special regard to the desirability of preserving the setting or any features of special architectural or historic interest which these designated heritage assets possess.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - the living conditions of occupants of The Cottage
 - the setting of the Grade II listed building group at Ober Green Farm.

Reasons

Living conditions

6. The appeal development is situated in the appellant's enclosed courtyard area. Part of a neighbouring dwelling called The Cottage wraps around two sides of this courtyard and forms the boundary feature to its rear most extremity. The appeal development is positioned immediately in front of a single width door located at ground floor level in this exposed rear elevation. To one side of it is a ground floor obscurely glazed window. These openings both serve The Cottage's utility area. This uncommon arrangement has arisen from past exchanges in the ownerships of parts of this former farm building group.
7. The utility door opens inwards and, as such the positioning of the shed does not impinge on it being opened. However, it does prevent access into and out of that existing rear door. The evidence before me does not demonstrate that there would be a direct health and safety implication for the occupiers of The Cottage which would be detrimental to their living conditions should this appeal succeed. The submitted evidence demonstrates that the private right of access afforded to the occupants of The Cottage is limited to maintenance only and requires a period of notice to be given to the appellant. It is conceivable that it is of a size, scale and construction which means that access could be provided with the required notice. Whether or not the appellant fulfils any contractual obligation in this regard falls beyond the scope of the planning appeals procedure.
8. The glazing in this rear door is small, the Cottage benefits from a light well in the roof and the existing ground floor window facing onto the yard remains unrestricted. The obscure glazing employed in this rear elevation demonstrates that at ground floor level this elevation was not intended to provide a high level of outlook for the occupants of The Cottage. Consequently, I concur with the Council's assessment regarding implications to light and outlook for the occupants of The Cottage.
9. For these reasons, the appeal development does not cause unacceptable harm to the existing living conditions of the occupants of The Cottage.
10. Policy E1 of the Local Plan states amongst other things that a proposal will be supported where it does not have an unacceptable impact on the amenities or safety of occupiers of neighbouring buildings. Policy E2 of the Local Plan expects that all proposals will maintain a high standard of amenity for existing occupiers of neighbouring buildings, in particular those in residential use. In the absence of harm the appeal development does not conflict with either of these policies in this regard.

Heritage

11. The appeal site comprises part of a Grade II Listed former farm building group. Alongside the appeal property are a range of former outbuildings, now dwellings known as Ober Green Farm South, The Cottage and The Byre. The main parties have provided limited evidence in respect to the significance of these and their setting. To fulfil my statutory heritage duty, from the evidence which has been provided and my site visit I necessarily conclude that the significance of these buildings is historically and architecturally derived from the rustic agricultural origins of the particular building group.

12. The setting of a heritage asset is the surroundings in which the heritage asset is experienced. Where that experience is capable of being affected by the development in any way then it affects the setting of the asset. In this case the enclosed courtyard area has a clear physical and functional connection with the historic use of this building group. Despite its more recent physical subdivision, there is continuity in its original intimate, communal character and appearance through the design of the intervening boundary treatment and consistency in its hard surfacing. Apart from the appeal development, there are no other modern buildings within this enclosed courtyard area. Although this enclosed area and the appeal development are obscured from public vantage points, the important contribution this inner setting makes to the way in which the historic significance of these important buildings is both experienced and appreciated is not diminished. The positioning of the appeal development means that it falls within the setting of this important building group.
13. The exposed elevation against which the appeal development is read has a strong solid to void ratio comprising natural stone and handmade clay brick. It is evident that some of this elevation has been subject to more recent building works. The submitted evidence is inconclusive on whether the particular ground floor door and window openings in the rear elevation of The Cottage relate back to the original use of the farm outbuilding which now forms part of The Cottage. Nonetheless, the attributes of this elevation continue to substantially reflect the spatial and functional connection and agricultural heritage of the building group and its setting.
14. In terms of positioning, the juxtaposition between the appeal development and this part of the rear elevation of The Cottage is extremely awkward by virtue of the very close positioning of the shed to these openings, and in particular the almost complete, but not total obscuring of the existing door opening. This haphazard treatment undermines the historic physical and functional connection of these buildings which would otherwise be experienced and appreciated within their immediate courtyard setting.
15. The Council has not raised any heritage related objections to the appeal development. However, their assessment is based on a timber building. I find that the prefabricated appearance of the appeal development is compounded by the manmade composite material chosen which lacks a strong visual definition between its walls and roof, in terms of colour and finish. Overall, this substantially exacerbates the awkward positioning and therefore presence of the appeal development within this important setting.
16. For these reasons, the appeal development is jarring within the building group's immediate traditional rustic setting, and it is harmful to the way in which the significance of these designated heritage assets is experienced and able to be appreciated from within the inner courtyard area and the surrounding buildings. The level of that harm is less than substantial.
17. Paragraph 199 of the National Planning Policy Framework ("the Framework") 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. This is irrespective of whether the potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 of the Framework requires that any harm to significance including harm from development within the assets setting should

require clear and convincing justification. Crucially, no public benefits have been brought to my attention which outweigh this identified harm. Therefore, the appeal development is not justified in accordance with paragraph 202 of the Framework. Moreover, the appeal development fails to meet the requirements of section 66(1) of the Act in that it fails to preserve the setting of the listed building group.

18. For these reasons, the appeal development causes less than substantial harm to the setting of the Grade II listed building group at Ober Green Farm.
19. Policy E1 of the Local Plan gives support to development which responds positively to its context and draws inspiration from the key characteristics of its surroundings, including the historic environment. The development must respect and contribute positively to local character and identity in terms of appearance, use of materials, visual relationships and views. In line with the Framework's heritage approach, Policy S7 of the Local Plan requires that heritage assets are conserved in a manner appropriate to their significance. Moreover, Policy E5 of that plan states that support will only be given to development which ensures those features that contribute to the special architectural or historic interest of a listed building, or its setting are preserved and where appropriate enhanced. It requires that any harm to the significance of a designated heritage asset has a clear and convincing justification and less than substantial harm to significance will only be supported where the harm is outweighed by the public benefits of the proposal.
20. In view of the unjustified less than substantial harm that I have identified, the appeal development conflicts with all of these policies.

Other Matters

21. Arguments advanced about the potential for the appellant to substantially cover the rear elevation in question with plants up to a similar height attracts no weight as that would not have a comparable effect on this important setting. Limited weight is given to the argument that the appeal development increases the appellant's privacy levels. This is because low levels of privacy would continue to be enjoyed given other openings to the neighbouring dwellings exist which enjoy views into this courtyard area.

Conclusion

22. For the reasons given above, although I have found no conflict with the development plan in respect to the living conditions of occupiers of The Cottage, less than substantial heritage harm has been found. I place considerable importance and weight on the conflicts that I have identified in respect to the development plan, Framework and the Act in this regard. Overall, the appeal development conflicts with the development plan when taken as a whole. There are no material considerations before me that outweigh this conflict. Therefore, this appeal should be dismissed.

C Dillon

INSPECTOR