



Appeal Decision

Site visit made on 22 March 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2022

Appeal Ref: APP/E2734/W/21/3289916

Public Garden, High Street, Knaresborough North Yorkshire HG5 0HL

Easting(x): 434890 Northing(y): 457180

- 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 Knaresborough Community Land Trust against the decision of Harrogate Borough Council.
- The application Ref 20/03794/FUL, dated 8 September 2020, was refused by notice dated 20 September 2021.
- The development proposed was described as *'The proposal is to build a low-energy, low-carbon affordable development, consisting of 3 one-bedroom 2 person apartments with associated amenities spaces. The scheme will be managed by KCLT'*.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Although a lengthy description of the site address is also given on the initial planning application form, I have used the shorter and more concise version on that form, and as used by the Council on the decision notice. I have determined the appeal accordingly.
3. The second of the Council's two refusal reasons considers whether or not the proposal would afford future occupants of the proposed flats adequate residential amenity and cites Harrogate District Local Plan (HDLP) policy NE7. However, HDLP policy NE7 sets out the Council's approach to trees and woodland, whilst reference to the Council's officer report indicates that it should be HDLP policy HP4 against which residential amenity and living conditions should be considered.
4. I have noted the Council's response to my request for clarification of this matter and I have given careful consideration to the officer report and HDLP policies NE7 and HP4 in this respect. I have determined the appeal accordingly.

Main Issues

5. The main issues are:
 - Whether or not the proposed development would preserve or enhance the character or appearance of the Knaresborough Conservation Area, with particular regard to the loss of existing trees; and
 - The living conditions of future occupiers of the proposed development.

Reasons

Character and appearance

6. The appeal site is narrow but relatively deep site comprised of a small 'public garden' featuring a mix of hard surfacing, low walls, planters and seats and low- and medium-level shrub and tree planting around the site's perimeter. A substantial tree¹ located immediately adjacent to the gable elevation of 115 High Street is the dominant feature of the site and its immediate surroundings, to which a number of other trees, mostly noted as being trees of moderate quality by the appellant's 'Arboricultural Impact Assessment' (AIA)².
7. The site lies within the Knaresborough Conservation Area (CA) and adjacent to 115 High Street, a grade II listed building. Although the appeal site is not described within the CACA as being, or featuring, prominent woodland or trees, important open space or important stone / boundary walls, it forms a visual continuation of such designations lying immediately to the south of the site.
8. There is some disagreement as to whether or not the appeal site may be considered a 'public garden', owing principally to it having some time ago been cleared of an earlier bus shelter and public toilet (and, in turn, previously an air-raid shelter). However, from my observations, it functions as such, perhaps in the manner of a 'pocket park', but nevertheless as a pleasant, verdant retreat from the hustle of the High Street close to its busy junction with Boroughbridge Road. Moreover, because of its extensive tree and shrub cover within a relatively compact area it is also a significant and positive visual contributor to the character and appearance of this part of the CA.
9. The site lies within 'Character Area B: North-West of the railway line' of the CA, as identified within the Knaresborough Conservation Area Character Appraisal (CACA). This sub-area of the CA takes its character from the proliferation of listed buildings within it which generally front directly onto the main thoroughfares through it. The green space of St John's churchyard and Knaresborough House form the heart of the character area and are noted for their valuable open space. Although the CACA notes the appeal site as being a neglected area it is noted that the CACA pre-dates the removal of the building's previously on site and its remodelling into its current state.
10. The proposed residential building would occupy much of the site's road frontage, part of which is currently paved with areas of seating around it. However, a number of trees³ and low-level shrubs would be removed to facilitate the proposed development, including the prominent T1, the loss of which would be particularly harmful to the character and appearance of the site.
11. This tree, and the site's vegetation more generally, makes a positive contribution to its immediate surroundings and the CA more widely. Whilst it may not be formally identified or recognised as such within the CACA, the site's proximity to important open green spaces, its relationship with High Street and the way in which it adds to the visual integrity of the important trees immediately to the south, cannot be underestimated. For all that the proposed

¹ T1: Hornbeam – as identified by JCA Limited Arboricultural & Ecological Consultants 'Arboricultural Impact Assessment' JCA Ref: 15326-C/AJB

² Arboricultural Impact Assessment' JCA Ref: 15326-C/AJB

³ T1, T2 and T6 – T10 – 'Arboricultural Impact Assessment' JCA Ref: 15326-C/AJB

building seeks to respond to its context, it would fail to do so most notably, but not solely, by virtue of the resultant loss of a pleasant and verdant area of open space that provides a relatively tranquil respite from the bustle of High Street.

12. Visual examples have been provided showing a range of architectural responses to conservation area locations across Knaresborough. Whilst it is not clear from the limited information given of those examples exactly what their context is, the appeal site is in a prominent roadside location and in the immediate foreground of a substantial listed building at 115 High Street. The removal of existing vegetation within the site would result in a more open view of the proposed building's flank than that currently afforded to that of the adjacent listed building. The resulting prominence of the proposal's comparatively stark flank elevation would emphasise both the loss of the existing vegetation cover the site currently provides and the value of the contribution the vegetation within the site makes to its immediate setting and that of the wider streetscene.
13. I share the Council's concerns regarding the proposal's shortcomings. I accept that the space around the building is limited and that this may pose difficulties for the storage of construction materials. However, the render finish at ground floor and slate hanging at first and second would result in stark yet somewhat bland elevations lacking the warmth of the traditional stone-faced buildings around it. Together with the loss of almost all the existing vegetation from within the site, the proposed development's design would fail to respond positively to local context and character.
14. The proposed development, and particularly the loss of the open space, garden and the majority of the trees within the site, most notably but not limited to tree T1, would for the reasons set out above fail to preserve or enhance the character or appearance of the CA. The statutory duties placed upon the decision maker by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCA) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
15. However, whilst causing harm to these designated heritage assets, that harm would be less than substantial. The Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
16. In this instance, whilst the proposal would deliver additional homes and secure a viable use on the land, no case has been made that the retention of the appeal site in its existing form and for its current purposes is not viable. The delivery of additional homes would be consistent with the Government's aim of significantly boosting the supply of homes, albeit that the weight that this carries in support of the proposal is tempered by the limited quantum of development. It is however, nevertheless a public benefit for the purposes of the Framework's heritage balancing exercise.
17. The development would also be reasonably centrally located within walking distance of a range of facilities, services and transport links present within the centre of Knaresborough. The proposed homes are described as affordable housing units and have the support of the Council's Housing officer. Whilst I

have no further details of the affordable housing or means of securing its occupation as such in perpetuity, subject to measures being in place this is also capable of being a public benefit weighing in favour of the proposal.

18. I have noted the caution of the Council's Principal Conservation Officer regarding the longer-term implications of tree T1 upon the adjacent listed building. I have also noted the caution regarding its potential removal on the listed building. There is also a statutory duty imposed by section 66(1) of the PLBCA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
19. With regard to tree T1 it is certainly very close to the listed building. In the absence of detailed justification for its removal or the potential implications of its removal on the listed building's structure and fabric, its removal to secure the longer term future of the listed building cannot be guaranteed. I give this matter limited weight as a public benefit as a consequence. In any event the tree, and the wider site, contribute positively to the setting of the listed building in creating a pleasant, landscaped foreground setting to that building. Their replacement with a building which fails to respond positively to local context in terms of its scale, massing and palette of materials in such a prominent position would fail to preserve the setting of the adjacent listed building.
20. Given the above, and the limited public benefits of the proposal, I conclude that, on balance, the proposal would fail to preserve or enhance the character or appearance of the Knaresborough Conservation Area. It would also fail to preserve the setting of the adjacent grade II listed 115 High Street. This would fail to satisfy the requirements of the PLBCA, paragraph 197 of the Framework and conflict with policies HP2 and HP3 of the Harrogate District Local Plan (HDLP) that seek, among other things, to ensure that proposals affecting a heritage asset and / or its setting protect or enhance those features which contribute to its special interest and respects the spatial qualities of the local area.

Living conditions

21. The site's proximity to a busy trafficked thoroughfare and immediately adjacent to a bus stop rightly raises concerns about the potential effects of both noise and airborne vehicle pollution upon future occupiers of the flats. Of the two windows that would face directly on to High Street on each floor, one would serve a bathroom where mechanical ventilation and the effects of noise would be less keenly felt.
22. The other front-facing window on each level would serve a large triple-aspect open-plan living room, which would also incorporate additional windows that face south and west. Each unit's bedroom window would be on the rear (west facing) elevation.
23. The appellant's Statement of Case avoids addressing this matter directly, instead noting future resident's access to the communal garden and yard, the provision of cycle parking and the site's proximity to services, facilities and transport links within the centre of Knaresborough. Whilst I do not underestimate the value of these matters, I have no compelling or detailed evidence before me regarding details of the interplay between noise insulation measures and ensuring adequate ventilation. There is therefore no compelling

evidence before me to demonstrate how the proposal would seek to resolve this and provide adequate residential amenity, and therefore living conditions, for future occupiers. Nor therefore can I be certain that such matters could be adequately resolved by way of planning condition.

24. It is the second of the refusal reasons which refers to the matter of residential amenity and living conditions, citing HDLP policy NE7. However, this policy sets out the Council's approach to trees and woodland in considering development proposals, not to residential amenity and living conditions. The Council's officer report⁴, which in the absence of a Statement of Case sets out the Council's case, is clear however that the proposal should be considered against HDLP policy HP4 in respect of living conditions
25. Whilst I have noted the Council's subsequent response to a request for clarification, and particularly the concerns regarding air quality, pollution reduction and carbon sequestration, HDLP policy NE7 is not directly relevant to matters relating to the living conditions of future occupiers of the proposed development and does not directly consider matters of air quality. I have already concluded that the proposed development, and the resulting loss of trees and vegetation, would cause harm to character and appearance, failing also to preserve or enhance these aspects of the CA. However, in the absence of specific, detailed or compelling evidence, the proposal fails to demonstrate that it would avoid significant adverse effects upon future occupiers by way of vibration, fumes and noise and, as such, would be contrary to HDLP policy HP4.

Conclusion

26. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR

⁴ Section 4 - Amenity