



Appeal Decision

Site visit made on 14 June 2022

by M L Milliken BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2022

Appeal Ref: APP/N2739/W/22/3290831

Yew Tree House, Main Street, Kelfield, York YO19 6RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Richard Atkinson against Selby District Council.
 - The application Ref 2021/1295/REM dated 17 October 2021 sought approval of details pursuant to Condition No 2 of outline planning permission Ref 2017/0701/OUT dated 19 January 2019.
 - The development proposed is access, appearance, landscaping, layout and scale details.
 - The condition in dispute is as follows:
2. Approval of the details of the (a) appearance, (b) landscaping, (c) layout, (d) scale and (e) the means of access to the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.
 - The reasons given for the condition is as follows:
This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.
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Decision

1. The appeal is allowed and the details submitted pursuant to condition No 2 attached to planning permission Ref 2017/0701/OUT dated 19 January 2019, namely access, appearance, landscaping, layout and scale details in accordance with the application Ref 2021/1295/REM, dated 17 October 2021 are approved subject to the conditions set out in the accompanying Schedule.

Procedural Matters

2. This appeal relates to the non-determination of an application for reserved matters relating to access, appearance, landscaping, layout and scale by the Council. It is evident from the parties' submissions that, although the application was submitted in October 2021, changes were made to the application in the form of amended drawings, the last of which were considered by the Council's planning committee in January 2022. I am satisfied, from what I have seen and read, that these plans comprised amendments to the application in an attempt to overcome local members' concerns and were fully consulted upon. Furthermore, there is no evidence that the Council sought to reject the amended plans on the basis that the changes were tantamount to a new reserved matters application.

3. In addition to lodging this appeal, the parties agree that the appellant formally lodged a reserved matters application of a similar nature to the appeal to the Council in January 2022, Ref 2022/0050/REM. The parties agree that this application was subsequently granted by planning committee on 7 April 2022.
4. As a result, I consider that it would be a futile exercise for me to consider the reserved matters as a whole or revisit the scheme in its entirety, given there is a chance that the other reserved matters scheme would be implemented. The Council has since confirmed in writing that matters which remain in dispute comprise the layout and therefore it is on that basis that I focus this appeal and upon which I have formed my main issue for consideration in this case.
5. The appellant submitted additional plans entitled Drawing 033 Proposed Site Layout and Drawing 043 Proposed Landscaping Layout during the appeal process for my consideration, with the aim of addressing some of the concerns raised by local members at the January 2022 planning committee. With reference to the Wheatcroft principles¹, I do not find that the changes introduced for the purposes of the appeal would cause material prejudice to any interested party and I have accepted the plans in evidence and am proceeding to determine the appeal on that basis.

Application for costs

6. An application for costs was made by Mr Richard Atkinson against Selby District Council. This application is the subject of a separate Decision.

Main Issue

7. The main issue is whether or not the proposed development would have an acceptable effect on the character and appearance of the area, with specific regard to scale, layout and housing mix.

Reasons

8. As noted during my site visit, the settlement of Kelfield contains properties of varying sizes, ages and styles, including a number of detached dwellings present. The growth of the settlement over time is evident and forms part of its overall character.
9. The proposed layout would comprise a central access road to serve Plots 2, 3, 4, 5 and 6. Access to Plot 1 would be via the existing access point that serves Yew Tree House and would be shared with that property. The proposed dwellings would comprise 6 no. two storey detached properties, with habitable rooms in the roofspace and private gardens.
10. With regard to the proposed site layout plan approved by the Council as part of the reserved matters application Ref 2022/0050/REM in April 2022 and with reference to Drawings 033 Proposed Site Layout and 043 Proposed Landscaping Layout in evidence, the main differences relate to Plots 4, 5 and 6 and the associated implications for the layout, including housing mix and private garden space.
11. I note the Council's concerns in relation to the proposed housing mix, however I do not consider the provision of detached dwellings to be uncharacteristic in the context of other developments present within the local area. With regard to

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 p37]

concerns relating to overdevelopment, the appellant has provided evidence outlining that less than 36% of each of the rear plots would be built upon, and I find that the properties proposed would be similar in scale to those already present nearby. Further, I find the spacing proposed between existing and proposed dwellings to be acceptable and do not consider that adverse effects upon the living conditions of existing or future residents would occur. Overall, I do not find that the proposed layout and housing mix would amount to overdevelopment, either in academic or actual terms.

12. The proposed layout, in my view, also makes the provision for gardens of an appropriate size and scale to the dwellings proposed and includes access to the agricultural land beyond for plots 4, 5 and 6. Therefore, and whilst I note the Council's concerns in this regard, I have little reason to conclude that the gardens proposed would not provide satisfactory private amenity space for residents. Notwithstanding this, I also note references to the potential for the appellant to submit a change of use application to extend the gardens, subject to the Council's approval.
13. I note that the proposed layout differs from that approved by the Council as part of the reserved matters application Ref 2022/0050/REM, primarily involving the reorientation of some of the rear properties and the linking of two dwellings to form semi-detached properties. Whilst I find that the layout before me is not as linear as the approved scheme, I nonetheless find little in the way of harm arising from it.
14. I note an objection raised by the Council's Conservation Officer in relation to the proposal, including the desire for the layout to be more agricultural in nature. However, for reasons already provided, I do not agree that the proposed development layout would appear discordant in the local context or have an adverse effect on the character and appearance of the settlement but rather, overall, I find that it would be in keeping with other small-scale developments found locally.
15. I also note references in evidence that Yew Tree House is considered by the Council to be a non-designated heritage asset, however limited information on this matter has been provided. Notwithstanding this, I find that the significance of the asset relates to, in part, its location on the main thoroughfare through the settlement and the traditional style and form of the building. It is my judgement that the proposed layout of the new dwellings would not interrupt or distract views of the building or negatively affect its setting, including how it is appreciated, and I therefore find that its significance would not be adversely affected.
16. With regard to the proposed landscape layout, I find that the scheme makes appropriate provision for tree protection and respects the relationship between proposed trees and the dwellings, together with standoff distances associated with Yorkshire Water apparatus.
17. I note that the amended layout plan submitted with the appeal provides an alternative bin collection point 25m from Main Street, similar to that recently approved by the Council as part of the reserved matters application Ref 2022/0050/REM, and thus I consider the proposed layout to be acceptable in this regard.

18. Overall, I find no evidence of any substantive harm and consider that the proposed development would have an acceptable effect on the character and appearance of the area, with specific regard to scale, layout and housing mix. It would therefore accord with Policies SP18 and SP19 of the Selby District Core Strategy Local Plan (2013), which seek to ensure that proposals protect and enhance the environment, are of a high quality design and have regard to local character and Policy ENV1 of the Selby District Local Plan (2005), which seeks to ensure, amongst other things, that new developments do not have an unacceptable effect on the character of local areas or the amenity of adjoining occupiers and that the layout of proposals are appropriate to their surroundings.

Other Matters

19. I note that the appeal site lies within proximity to the Kelfield moated site and fishpond, a Scheduled Monument. The Council have provided me with a copy of the Listing Description and it would appear that the significance of the heritage asset relates to, in part, its historical use and as a means of understanding the distribution of wealth and status in the countryside. Although this asset was considered as part of the original Outline application, I have considered the effect of the proposed development layout in relation to this heritage asset and, overall, I am satisfied that the location of the proposed development would not interrupt or distract views of the asset or negatively affect its setting, including how it is appreciated. I am therefore satisfied that its significance would be preserved. In reaching this decision, I have discharged my statutory duty under the 1990 Act.
20. I have had regard to a number of objections raised, where these relate to planning matters for consideration. Such objections include but are not limited to, the location of the proposed development, the potential effect of the development on parking, traffic and highway safety, ecology, the risk of flooding, noise impacts, the character and appearance of the area, living conditions, increased pressure on local services and residential amenity.
21. However, I find that a number of the objections relate to the principle of development, which I consider has already been established through the Outline planning permission and thus I shall not revisit these matters here. With the exception of objections relating to matters I have considered in my main issue above, I find that the remaining objections, including those relating to parking, have not been substantiated in evidence before me, and the Council does not cite these as matters of concern. I am satisfied, from what I have seen and read, that the proposed development would have an acceptable effect in relation to the issues outlined above and that other matters can be addressed through the imposition of appropriately worded planning conditions.
22. I am further minded that the application was recommended for approval at both the December 2021 and January 2022 Planning Committees, and, although deferred due to some concerns raised by Planning Committee Members, these concerns were not deemed significant enough to refuse the application.

Conditions

23. A schedule of conditions for the proposed development is provided by the Council and I am satisfied that the appellant has had the opportunity to

comment in this regard. I have reviewed the conditions and considered them in line with Paragraph 56 of the Framework and the PPG. The wording of some conditions has been adjusted where necessary, in the interests of clarity and to ensure compliance with relevant guidance. In the interests of brevity and to avoid repetition, I have also combined or deleted some conditions where necessary.

- 24. Condition 1 defining the approved plans is necessary in the interests of certainty. Condition 2 is necessary to ensure the protection of residential amenity and to preserve the character and appearance of the area.
- 25. Conditions 3 to 11 are necessary in the interests of highway safety, to ensure the health and safety of highway users and to ensure the protection of residential amenity.
- 26. Conditions 12 and 13 are necessary to preserve the character and appearance of the area.

Conclusion

- 27. For the reasons set out, I conclude that the appeal should be allowed.

M L Milliken

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:
 - Atkinson 01 - Location Plan
 - 033 – Proposed Site Layout 1:200
 - 043 – Landscaping Layout
 - 052 – Proposed Drainage Layout
 - 061 – Plot 4, 5 & 6 floor plans and elevations
 - 092 – Plot 1 Floor plans and elevations
 - 072 – Plots 2 & 3 Floor plans and elevations
 - 082 – Garage layout and elevations
2. Notwithstanding the submitted plans and drawings, the materials to be used in the construction of the exterior walls, roofs and boundary walls of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any above ground construction of the dwellings commences. The development shall then be carried out in accordance with the approved details.
3. Prior to any above ground construction, the following drawings and details shall be submitted to and approved in writing by the Local Planning Authority, or alternatively details of a management company for the site shall be submitted to and approved in writing by the Local Planning Authority:
 - a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - i. the proposed highway layout including the highway boundary
 - ii. dimensions of any carriageway, footway, and verges
 - iii. visibility splays
 - iv. the proposed buildings and site layout, including levels
 - v. accesses and driveways
 - vi. drainage and sewerage system
 - vii. lining and signing
 - viii. all types of surfacing (including tactiles), kerbing and edging.
 - b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - i. the existing ground level
 - ii. the proposed road channel and centre line levels

- iii. full details of surface water drainage proposals.
- c. Full highway construction details including:
 - i. typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways and footways/footpaths
 - ii. when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - iii. kerb and edging construction details
 - iv. typical drainage construction details.
- d. Details of the method and means of surface water disposal.
- e. Details of all proposed street lighting.
- f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- g. Full working drawings for any structures which affect or form part of the highway network.
- h. A programme for completing the works.

The development shall be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority.

- 4. The dwellings on plots 2-6 shall not be occupied until the new carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.
- 5. Prior to any above ground construction the accesses to the site shall be set out and constructed in accordance with the published specification of the Highway Authority.
- 6. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- 7. No above ground construction of the new dwellings on plots 2-6 shall take place until the new access has been constructed with visibility splays giving clear visibility of 43 metres measured along both channel lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 8. No above ground construction of the new dwellings on plots 2-6 shall take place until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre and

the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

9. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a. vehicular, cycle, and pedestrian accesses
 - b. vehicular and cycle parking
 - c. vehicular turning arrangements
 - d. manoeuvring arrangements
 - e. loading and unloading arrangements.
10. No new dwelling shall be occupied until the approved vehicle access, parking, manoeuvring and turning areas are completed and available for use. Once created these areas shall thereafter be maintained clear of any obstruction and retained for their intended purpose.
11. The garages hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
12. All tree planting, hedgerow planting and turfing shown on Drawing 043 Landscaping Layout shall be carried out in the first planting seasons following the first occupation of the dwellings or the substantial completion of the development, whichever is the sooner.
13. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season.