



Appeal Decisions

Site visit made on 13 September 2022

by Susan Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 1st November 2022

Appeal A: APP/N2739/W/21/3289005

Church View, Main Street, Ulleskelf LS24 9DU

- 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 planning permission.
 - The appeal is made by Mr John Crompton of LOROC Architects against Selby District Council.
 - The application Ref: 2020/0337/FUL, is dated 27 March 2020.
 - The development proposed is demolition of existing semi-derelict out buildings and erection of new detached dormer bungalow, new garages for the new detached dormer bungalow and existing cottages, formation of new formal rear gardens to the existing cottages, revised site access and associated external works
-

Appeal B: APP/N2739/W/21/3289007

Church View, Main Street, Ulleskelf LS24 9DU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr John Crompton of LOROC Architects against Selby District Council.
 - The application Ref: 2020/0618/LBC is dated 17 June 2020.
 - The works proposed are demolition of existing semi-derelict out buildings and erection of new detached dormer bungalow, new garages for the new detached dormer bungalow and existing cottages, formation of new formal rear gardens to the existing cottages, revised site access and associated external works
-

Decision

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is dismissed and listed building consent is refused.

Preliminary Matters

3. The appeals have been made following the Council's failure to determine the applications within the prescribed period. Following the submission of the appeals, the Council has clarified the position it would have taken on the applications if it had made the decisions within the required timescales. I have taken these into account in determining the main issues.
4. The description includes reference to the erection of garages, but the most recent layout plans (1587-200B) indicate external parking spaces only. Given that the Council carried out consultation on the amendments, I have dealt with the appeal on the basis of these revised plans.

5. As the appeals relate to listed buildings and the setting of a further listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The Planning Practice Guidance on Flood Risk and Coastal Change (PPG) has been comprehensively updated since submission of the appeal and the main parties have had the opportunity to comment on it. No further matters were raised as a consequence of the revised PPG.

Main Issues

7. The appeals relate to outbuildings which form part of the shared curtilage of two Grade II listed buildings: Church View, Main Street (Ref. 1148392) and Church View Cottage, described in the listing as 'House adjoining Church View', Main Street (Ref. 1296504). Whilst not specifically noted in the list descriptions, by reason of the application of Section 1(5) of the Act the curtilage structures are subject to listed building control and there is no dispute between the parties on this matter. Collectively, the site with both listed buildings and its shared curtilage is hereafter referred to as 'Church View'.
8. The main issues are:
 - i) Whether the demolition of the outbuildings at Church View would preserve any features of special architectural and historic interest which the listed buildings possess;
 - ii) The effect of the proposal on the character and appearance of the local area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of the neighbouring Grade II listed building 'Rosedene, Main Street' (Ref: 1316355);
 - iii) Whether the proposed development would be safe from flooding without increasing flood risk elsewhere, with particular reference to the application of the sequential test;
 - iv) Whether the proposal is acceptable in terms of highway safety; and
 - v) The effects of the proposed development on protected species, specifically bats.

Reasons

9. Church View incorporates a pair of separately listed eighteenth century cottages. They occupy a prominent position abutting the footpath where Main Street curves through the village of Ulleskelf. Both are predominately fronted with brick under a pantile roof, with the incorporation of limestone rubble to the rear of both buildings. To the rear, beyond an area of hardstanding, there lies a range of outbuildings. Behind the outbuildings is a large grassed area, and the site is reminiscent of farm cottages and former farmyard.
10. From the aerial view and historic maps¹ together with my observations on site, I find that the wider hedgerow-bound curtilage is characteristic of a medieval burghage plot. The site has a vehicular access onto Main Street, over a grass verge. Due to the sinuous nature of the road and low boundary features, the rear of the cottages and the group of outbuildings are visible for some distance

¹ Heritage Statement, TheUrbanGlow Design & Heritage Ltd

from an easterly direction, so that the site sits prominently within the village of Ulleskelf.

11. I find that the special interest of the listed buildings, insofar as it relates to these appeals, to be primarily associated with this prominent and largely intact group of traditionally constructed listed buildings within a burgage plot. Overall, the group positively contributes to the character and appearance of the area.

Demolition of Outbuildings

12. The range of single storey outbuildings within the group are all physically connected, but distinctly built of different materials and within disparate time periods. The appellant's evidence² assesses the type, materials and condition of each of the buildings 'A' to 'F' in turn, and I use the same referencing in this decision. The historic mapping³ indicates a building on the site to be in existence in 1849, and this is noted to be a smithy. This identification is consistent with the characteristics of building C, whose interior contains the remnants of a large chimney characteristic of a forge.
13. Buildings A, B, D and E are predominately twentieth century structures, constructed largely from breeze block with metal cladding. Building F comprises a greater proportion of traditional building materials including limestone and brick, with an expanse of stone flags to the floor. Whilst I was unable to view the roof, the type and condition of wall and floor materials suggest this is the oldest building of the group.
14. Building C is the most prominent from Main Street, with a pitched pantile roof above brick dentilled eaves. Numerous openings have been blocked up and two of its elevations are concealed by the more modern structures. Whilst there is no remaining evidence of the forge chimney externally, the southern wall of the building has been subject to rendered repairs. A large wooden beam, which appears to be of some age, is located to the northern end where the opening connects building C to building B. I noted the roof to be in relatively good condition with modern timbers and felting, and the sympathetic re-use of pantiles.
15. Overall, from my observations on site and the reports before me, I find that buildings A, B, D and E are of modern construction and do not display any heritage values of significance. On the contrary, buildings C and F present heritage values which are both evidential and historical. I therefore find the special interest of the listed building, insofar as it relates to these appeals, lies in their historic connection with Church View, the associated burgage plot, and probable former use as a smithy.
16. As such, in accordance with paragraph 200 of the Framework, the loss of the buildings requires clear and convincing justification. Whilst the submitted structural survey⁴ provides some useful information about the buildings, including photographs, it is limited to a visual survey only. I acknowledge that building C has some structural issues, most clearly evidenced by the bulging of the eastern elevation and patching up of cracked brickwork. However, the survey is lacking in information regarding the structural stability of the

² Heritage Survey and Building Pathology (Thomson Heritage Consultancy, January 2021)

³ 1849 map, reproduced on page 6 of the Heritage Statement

⁴ Visual Structural Survey, CoDa Structures (July 2020)

buildings, which would more appropriately inform their suitability for potential conversion.

17. Notwithstanding these limitations, its conclusions for each of the buildings do not suggest that they are in such poor condition that they are incapable of effective re-use without some structural intervention. Indeed, building F, perhaps the oldest structure, is assessed as being in 'reasonable' condition. I noted that all of the buildings are in use and well-enclosed. They provide adequate shelter and security for the household items stored within, served by utilities including water and electricity.
18. Putting aside their condition, the location of the buildings in terms of being obstructive to the configuration of the site access and parking arrangements is an unsatisfactory justification for the proposed demolition. Whilst the layout is haphazard, the residential re-use of buildings C and F with sympathetic alterations and carefully designed extensions does not appear to have been fully explored. Re-use of some of the materials within the proposed dwelling is not demonstrated in the submitted plans. Nor is the historic form and layout of the buildings reflected in the proposed design of the new build, which I consider further in the next section.
19. Given the above, I find the proposal to demolish the outbuildings would fail to preserve the special interest of the listed buildings and I give this harm considerable importance and weight in the planning balance of these appeals.

Proposed Dwelling

20. The scale and bulk of the proposed new dwelling would jar with the modest scale and traditional appearance of the existing cottages. As a bungalow with rooms within the roofspace, the design incorporates an abnormally high eaves height which would result in an uncharacteristic expanse of brick above the ground floor windows. There are no chimneys proposed to break up the expanse of roof, and together with a deficiency of detailing, the design would result in an appearance significantly at odds with the traditional farmstead character of the immediate area.
21. Furthermore, the siting of the proposed dwelling more distant from the existing dwellings and its rear facing orientation would fail to respect the historic character of the burgage plot, in addition to the outbuildings which it is proposed to replace. Overall, it would be highly incongruent and inauthentic to the special interest of the listed buildings, which are closely associated with the outbuildings to the rear.
22. As part of the proposals new rear gardens would be created for the existing cottages, together with provision of car parking spaces for both new and existing dwellings. To enable access to a total of five dwellings, works are proposed to reconfigure the access onto Main Street. The widening of the access would result in the loss of part of the grassed verge, enabling clear and wider views from Main Street. It is unclear how the access and enclosure of gardens would be treated in terms of surfacing and boundary treatment. The existing outbuildings provide an 'end stop' to the bend in the road, contributing to the intimate setting formed by the farmhouses which line the narrow street. Instead of a view of the historic smithy, the scene in this location would instead be of a widened access and parking area for four cars. As such, the distinct character of the area in this part of Main Street would be irretrievably harmed.

23. The neighbouring listed building 'Rosedene' is situated immediately adjacent to the proposed widened access. Whilst the Council have not cited harm to its setting, I have considered it as part of my duty under S.66(1) of the Act. Rosedene is an early to mid C18 farmhouse whose significance derives from its heritage values as a fine example of a farmhouse of its time, set on the back edge of the footpath together with a detached brick barn which abuts the aforementioned grass verge. It follows from my findings above that the proposed dwelling and access arrangements would also result in harm to the setting of the neighbouring listed building.
24. Overall, the proposals would involve a significant and negative change to the group of listed buildings as a whole.
25. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given that the cottages would remain intact, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
26. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the proposal would be beneficial for a number of reasons, including the provision of improved individual curtilages for the cottages, the removal of unsightly structures, and cross-subsidy of the restoration of the cottages. Furthermore, the use of previously developed land within an existing settlement and contribution to the housing supply of the district are cited as public benefits.
27. Whilst I acknowledge that the creation of a garden curtilage to each of the cottages would increase their desirability and might encourage further investment in their maintenance, improvements to living conditions are private benefits. An argument for enabling development has not been detailed in the submission, and there is no evidence before me that the cottages are in urgent need of subsidy to ensure their upkeep, therefore I can only give limited weight to this. Together, the cited public benefits are insufficient to outweigh the harm that I have identified. In any event, the continued viable use of the appeal property is not dependent on the proposal as the outbuildings have an ongoing residential storage use that would not cease in its absence.
28. Given the above and in the absence of any significant public benefit, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed buildings at Church View as well as the setting of the neighbouring building. This would fail to satisfy the requirements of the Act and paragraph 199 of the Framework. Furthermore, I find the proposed dwelling and access arrangements would result in harm to the character and appearance of the area.
29. The proposal would be contrary to Policies SP4, SP18(2) and SP19 of the Selby District Local Plan 2005 (SDLP) and Policies ENV1 (4 and 5) and ENV24 of the Selby District Core Strategy 2013 (CS). Together, they seek to avoid harm to the historic character and fabric of listed buildings and achieve high quality

design which has regard to and positively contributes to the local character, identity and context of its surroundings including historic townscapes. As a result, the proposal would not be in accordance with the development plan.

30. The Ulleskelf Village Design Statement (2012) is a supplementary planning document but is limited in its relevance to the appeal. Whilst it provides useful background to the growth of the village it has limited information in relation to heritage assets and emphasises the variety of building types in the village. It does not contain any specific guidance or policies and therefore I find no conflict with it.

Flood Risk

31. Paragraph 167 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from those areas at highest risk (and demonstrated by the sequential test), and where it is necessary the development should be made safe for its lifetime without increasing flood risk elsewhere. Updated guidance is set out within the PPG.
32. The Flooding and Drainage Assessment (April 2020) (FDA) indicates that the site is located within an area of low flood risk, Flood Zone (FZ) 1, and that a sequential approach to development is therefore unnecessary. However, its conclusions are flawed in respect of its' FZ location. The Environment Agency (EA) online flood risk map confirms the Council's stance that the appeal site is situated within a mix of FZs 1, 2 and 3, with the highest risk FZ3 being centred around Main Street. This includes the part of the site where the proposed dwelling would be located. The FDA incorrectly locates the EA flood map 'pointer' for the location of the proposed dwelling (Appendix E) too far south, and wholly into FZ1.
33. Reference to the Strategic Flood Risk Assessment (SFRA) is made in the Framework and PPG, however there is no such document before me and both parties have instead referred to the aforementioned EA flood map. Whilst the FDA notes that modelled flood levels are awaited from the EA, I cannot find evidence of any such further information being submitted since production of the FDA in April 2020.
34. The lack of objection by the EA is not pertinent to the consideration of the sequential test, although they do note that part of the site is within FZ3. In any event, the PPG confirms that 'relevant decision makers' need to consider whether the test is passed, and that they need to be satisfied that the proposed development would be safe throughout its lifetime and not lead to increased flood risk elsewhere.
35. The lack of sequential test within the FRA is contrary to national policy and guidance as previously outlined. Consequently I am not satisfied that the proposal would be appropriately located nor that it would be safe throughout its lifetime and would not lead to increased flood risk elsewhere, contrary to the aforementioned national policy and guidance, and SDLP Policy ENV1(3) and CS Policy SP15 A(d).

Highway Safety

36. The submitted plans indicate that the proposed works to reconfigure and widen the existing access onto Main Street, and provision of dedicated parking

- spaces, would enable vehicles associated with a total of five dwellings to safely park and turn within the site. These include the existing two dwellings at Church View, the proposed dwelling, and the two dwellings previously approved to the rear of the site.
37. Visibility in a westerly direction from the existing access is obscured by the position of Church View on the bend in Main Street. Its corner directly abuts the highway and provides an obstruction in the existing footway forcing pedestrians into the road. A continuous footway exists on the opposite side of the road. The main village services are located to the western side of the village, around the B1223 Church Fenton Lane, including the railway station and a public house. There are fewer dwellings and services in an eastern direction beyond the appeal site, and I noted that there are a number of instances along this section of Main Street and Ings Road where the footway becomes non-existent. On my site visit, mid-morning on a Tuesday, I noted traffic levels to be very low. The vehicles that I saw were travelling at low speeds and pedestrian numbers were also very low, but I am conscious that this represents a generally quiet period of the day.
38. The submitted information includes limited evidence in relation to access and highway safety matters. The consultation responses from North Yorkshire County Council Highways (NYCC) indicate that additional information including tracking plans remain to be insufficient, and indicates that a speed survey would be required at the location of the proposed access. There is no such survey before me, and consequently it unclear whether the proposed visibility splays are appropriate. I am unable to comprehend what difference a speed survey might make to the proposal before me given that an access is already in place, and similar alterations have been previously approved to serve four dwellings. The bend in the road and the position of the existing building are factors which cannot be altered in this case. Therefore visibility would remain to be limited in a westerly direction, even if the access were further reconfigured and the splay increased in size.
39. Notwithstanding my previous conclusions regarding the effect on character and appearance, from the evidence before me and from my observations, on highway safety grounds alone I consider that safe and suitable access for one additional dwelling could be achieved. This would be subject to a condition along the lines of that recommended by the Council which requires the setting out and construction of the access in accordance with NYCC published guidance.
40. To conclude on this issue, in respect of access and highway safety alone the proposal would be in compliance with Policies ENV1(2), T1 and T2 of the SDLP and Policy SP15(Bf) of the CS. Together, they seek for development to be well related to the highway network and be served by a safe means of access. In turn, I find the proposal to be in accordance with paragraphs 110 to 112 of the Framework.

Protected Species

41. The proposal includes demolition of a number of outbuildings which are in varying degrees of disrepair. Whilst I was unable to ascertain the presence of bats or any other species on my site visit, I saw that the buildings have the potential to provide a habitat. This is by virtue of a number of openings into the buildings, the unoccupied nature of them and their proximity to vegetation.

42. The evidence before me suggests that the habitat conditions of the site and surrounding area have potential for the presence of protected species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. I am obliged to consider the presence of protected species and the extent to which they may be affected by the proposed development before planning permission is granted⁵.
43. There is a reasonable likelihood of bats being present and affected by the development. In the absence of an up-to-date and seasonally specific survey I cannot determine whether the proposal would have an adverse effect on this protected species and, if so, whether such an adverse effect could be overcome by any proposed mitigation measures. I have considered whether a pre-commencement condition requiring a survey could be imposed, mindful that such conditions should only be used in exceptional circumstances. However, the appellant's argument that the costs of such a survey can only be justified in the event of the proposal being approved does not provide an exception in itself, and a condition would not be an appropriate course of action in this case. No imperative reasons of overriding public interest have been identified that would justify the harm that could arise to bats if the proposal were to proceed.
44. The proposals would conflict with Policy ENV1(5) of the SDLP and Policy SP18 of the CS which, amongst other things, require consideration of potential loss of wildlife habitats and safeguard protected species from inappropriate development, and paragraph 180(a) of the Framework which indicates that in the absence of avoidance or adequate mitigation of harm to biodiversity, planning permission should be refused.

Conclusion

45. For the reasons given above I conclude that both appeals should be dismissed.

Susan Hunt

INSPECTOR

⁵ Circular 06/2005, paragraph 99