



Appeal Decision

Site visit made on 30 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal Ref: APP/C2741/W/22/3302284

Land adjacent 21 Main Street, Copmanthorpe, York YO23 3ST

- 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 John Crompton of LOROC Architects against the decision of City of York Council.
 - The application Ref 20/02043/FUL, dated 23 October 2020, was refused by notice dated 28 February 2022.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of one dwelling at Land adjacent 21 Main Street, Copmanthorpe, York YO23 3ST in accordance with the terms of the application, Ref 20/02043/FUL, dated 23 October 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council's reasons for refusal refer to the City of York Draft Local Plan Incorporating the Fourth Set of Changes - Development Control Local Plan (2005) (DCLP) and the Publication Draft Local Plan (2018) (the emerging LP) which is currently undergoing examination. Although the DCLP does not form part of the statutory development plan for the purposes of S38(6) of the Planning and Compensation Act 2004, it is a material consideration in determining planning applications. I have given both the DCLP and the emerging LP weight only in so far as they are consistent with the National Planning Policy Framework (the Framework).
3. Although the effect on daylight levels at the Methodist Church was not a reason for refusal, the appellant has commissioned a Daylighting Study which assesses the effect on daylight at the Methodist Church. The Methodist Church has had opportunity to comment on this and it has done so. I am therefore satisfied that no party would be prejudiced if I were to take this into account. I am therefore considering the Daylighting Study as part of the appeal.

Main Issue

4. The main issue is whether or not the proposed development would preserve or enhance the character or appearance of the Copmanthorpe Conservation Area.

Reasons

5. The appeal site relates to a rectangular parcel of land extending away from the edge of the highway along Main Street, Copmanthorpe. The site lies between

the Copmanthorpe Methodist Church and the private driveway of the semi-detached dwelling, 21 Main Street. Both these existing buildings extend back some way into their plots. The boundary with the pavement is formed by a hedge set back behind a small verge. This limits views into the site from the street.

6. The Methodist Church is a substantial modern building predominantly comprising of a main hipped roof section with a smaller lower hipped roofed side extension that is significantly set back from the main frontage. A garden area, raised above the street level and that of the appeal site lies between the frontage and the road.
7. The appeal site lies within the Copmanthorpe Conservation Area (the CA) which is focussed on Main Street and the centre of the village. As indicated in the Copmanthorpe Conservation Area Character Statement (the CS), Main Street is characterised by mostly 2-storey brick detached houses and cottages lining the road. Dwellings are sited close together and typically extend back considerably into their narrow plots. Outbuildings are also common. As a consequence, open space between buildings is generally limited to narrow accesses extending to the rear.
8. As reflected in the Copmanthorpe Village Design Statement (the DS), the characterful grouping of Georgian, Victorian and Edwardian buildings form a harmonious group, resulting in a pleasing, subtle variation in roofline and building line. Gables are a dominant feature of the streetscene along Main Street. These are either orientated perpendicular to the road with substantial chimneys as at Nos 17, 21, 36 and Hurton House, or fronting the road as at Nos 19, 30, 31 and Primrose Cottage. This adds to the variation in the streetscene. Dwellings are typically sited close to the frontage of their narrow plots with front walls or hedges that, as set out in the CS, help to *'maintain the setting and sense of scale of the houses'*.
9. The DS sets out design criteria for new infill development. This should be set back from plot boundaries and ensure discreet car parking provision when viewed from the street. Front gardens should not be dominated by hard surfacing for additional car parking.
10. The proposed new dwelling would fill much of the width of the appeal site, although it would still be set back from boundaries to either side behind a close boarded fence and railings along the driveway with No 21. Moreover, there would be sizeable gaps between the built form of the proposal and that either side. This is due to the significant setback of the side extension of the Methodist Church and the position of the side access between the appeal site and No 21. The extent of this space to either side would appear typical of the limited gaps between buildings that is characteristic of the CA.
11. The proposed dwelling's relatively low height, albeit two storeys, would be proportionate to its relatively narrow width and plot size. This height would ensure the building would not dominate the properties to either side, or the streetscene as a whole. Instead, it would be reflective of the outbuildings that extend back into the narrow plots present along Main Street. The gable frontage would echo other gable fronted properties in the vicinity. Moreover, it would add to the variation in roofline and building line that is reflective of the CA and the village as a whole. The building would have considerable depth; however, such depth is characteristic of buildings along Main Street and the

- CA. In this regard, I note the building would be of a similar overall depth to No 21 and would not extend back as far as the Methodist Church.
12. Whilst there are concerns that the front garden would be dominated by hard landscaping, it is proposed to retain a hedge to the front, softening the frontage and preventing any adverse visual effect from providing parking to the frontage. The materials proposed for the dwelling, being brick and slate would be broadly reflective of the CA, although in line with the Council's suggested planning condition it is recommended that details are provided to ensure that the materials relate well to the immediate context. In this regard, whilst the appeal statement refers to the proposed windows as dark grey, they are shown on the coloured drawings as a paler colour that would be more reflective of the surrounding buildings. However, this detail could be secured through a planning condition on any approval.
13. As such, for the above reasons I conclude that the proposed development would preserve the character and appearance of the Copmanthorpe Conservation Area. The proposal would therefore comply with paragraphs 189 and 199 of the Framework and Policy D4 of the emerging LP. Together, these seek to ensure great weight is given to the conservation of heritage assets and that they are conserved in a manner appropriate to their significance. For the same reasons there would be no conflict with paragraph 202 of the Framework which requires harm to heritage assets to be weighed against public benefits.
14. The proposal would also comply with Policy D1 of the emerging LP and Policy HE2 of the DCLP which, together and amongst other things, seek to ensure development proposals provide high quality design that reflects local distinctiveness.

Other Matters

15. I have had regard to the objections from local residents received during the application. Whilst there has been no objection by the Council, local residents have raised concern over a potential loss of privacy to the neighbouring property, No 21. The windows that would face the access to No 21 at a distance of 4.1 metres from the dwelling would be secondary windows, all of which would be obscure glazed. The rooflights would be of a height that would prevent views out towards the neighbouring properties and this can be secured by planning condition. Having also had regard to the proposed boundary treatments, I am therefore satisfied that the proposal would not adversely affect the privacy of local residents.
16. Due to the relatively low eaves and ridge heights and its position adjacent to two buildings of similar depth, I am satisfied that the proposed building would not adversely affect the outlook from No 21, which has the bulk of its windows and outside space to the front and rear. Due to its position to the north, there would be little effect on sunlight to the windows or outside spaces of No 21. The proposed dwelling would be sited sufficient distance from the rear elevation of properties on Deacon Court so as to avoid any loss of privacy or outlook being experienced by the occupiers of these properties. I am therefore satisfied that the proposal would not adversely affect the living conditions of the occupiers of neighbouring properties.
17. No windows are proposed on the north elevation of the dwelling which would likely avoid potential for disturbance of future occupiers from noise arising from

activities at the Methodist Church. In this regard, I note that the Methodist Church already operates in a residential area.

18. The Methodist Church, although not a residential property, is an important community facility and it is necessary to ensure that the enjoyment of the building by the public is not adversely affected by the proposal. Given the position of existing buildings, the low height of the proposed building and form of the Methodist Church, I am satisfied that the proposal would not result in a significant adverse effect on light levels here. This is supported by the aforementioned Lighting Study which concludes that all windows would achieve at least 27% or 80% of the existing Vertical Sky Component (VSC), were the proposal to be constructed.
19. The Methodist Church highlights that the main entrance to its building currently enjoys sunlight from early spring to late autumn. It is noted that the Lighting Study does not address the patio area on the approach to the main entrance of the Church. Whilst I accept that the light levels here could be reduced by the presence of the proposed development, this is unlikely to be significantly so, having regard to the extent of existing vegetation and the position of the patio, set away from the boundary with the appeal site.
20. The proposal would introduce a blank wall to the boundary with the Methodist Church. However, this would not appear overbearing from the patio due to the intervening boundary treatment, its low eaves height and the roof sloping away from the Methodist Church.
21. The proposal would utilise an existing access to provide parking for one vehicle. This would not result in a significant intensification of the access. Whilst there may be parking on the road outside the appeal site, there are no parking restrictions here and I saw that on-street parking was readily available around the appeal site. I note that no objections were raised by the Highway Authority in this regard. I am satisfied that the proposal would not adversely affect highway safety.

Conditions

22. I have considered the conditions suggested by the Council in the light of the tests and advice within the Framework and the Planning Practice Guidance (PPG). Conditions are necessary in respect of commencement time and relating the development to the submitted plans. A condition requiring details of materials is necessary in the interests of preserving the character and appearance of the CA. Similarly, and having regard to my above reasoning, a condition requiring the retention of a hedge to the frontage of the site is necessary in order to integrate the development into the streetscene and in the interests of preserving the character and appearance of the CA.
23. The Council has suggested a condition requiring windows to be timber, although the appellant refers to 'dark grey grain effect windows' without stating a material. As such it is reasonable to require a condition providing details of the proposed windows, including in particular their colour, having regard to my above reasoning. Such a condition would be in the interests of preserving the character and appearance of the CA. I have merged this condition with the Council's suggested condition requiring windows to be obscure glazed. This allows the appellant to provide details of the type of obscure glass proposed.

24. The appellant's Phase 1 Environmental Assessment concludes that contamination is unlikely. Nevertheless, having regard to the discussion in that report including nearby sources of contamination, I have imposed a condition requiring submission of a remediation strategy should any evidence of contamination be encountered during the development works. This is a proportionate approach to the potential implications of any risks, having had regard to public safety and the provisions of the PPG in that respect.
25. Condition 10 requires details of the parking area and it to be retained for such use. This would be in the interests of the appearance of the development and would ensure that space would remain on the site for parking of vehicles, reducing the demand for on-street parking, notwithstanding my conclusions on that above. In order to prevent loose material being drawn onto the highway in the interests of highway safety, a condition is necessary to require a sealed surface to the section of access adjacent to it.
26. Details of cycle parking and electric vehicle charging points are required in the interests of reducing emissions and maximising sustainable transport use, having regard to Policy T1 of the emerging LP and paragraph 104 of the Framework. In accordance with paragraph 130 of the Framework and given the constraints of the site, it is reasonable to require a condition to provide details of refuse and recycling facilities and their future retention for such purposes.
27. Whilst the General Permitted Development Order 2015 (as amended) has some provisions limiting the future installation of non-obscured windows, it is reasonable in this instance to prevent the future installation of all windows on the south elevation by means of a planning condition. This is in the interests of the privacy of the occupiers of No 21. Although the application refers to the windows in the elevation facing No 21 as being obscured, it is reasonable to require this in perpetuity through a planning condition in the interests of future occupiers of No 21. Similarly, it is important to ensure that the proposed rooflights do not contribute to overlooking and that their height above floor level would prevent this, as set out at condition 12. Given the restricted nature of the site within a residential area, it is reasonable to require a condition limiting construction hours in the interests of preserving the living conditions of local residents.
28. Furthermore, condition 4 is necessary in order to provide an adequate drainage system in accordance with the drainage hierarchy set out in the PPG. I have had regard to the conditions suggested by the Council's Flood Risk Engineer, however in the interests of brevity I have combined these into a single condition. The drainage drawing I have referred to in that condition shows the site being developed with separate systems of foul and surface water.

Conclusion

29. For the reasons given above, having considered the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Paul Martinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1608-100A - Location Plan; 1608-104D - Proposed Site Plan & ABC Section; 1608-105D - Proposed Section DEF; 1608-106B - Proposed Plans & Elevations.
- 3) Prior to commencement of the construction above foundation level of the dwelling hereby approved, details or samples of the materials to be used in the construction of its external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details or samples.
- 4) Prior to the installation of any windows, external doors or rooflights in the building hereby approved, details or samples of the proposed windows, external doors and rooflights including material, colour, and type and extent of obscure glazing shall be submitted to and approved in writing by the local planning authority. The windows, external doors and rooflights shall be installed in accordance with the approved details or samples prior to the first occupation of the dwelling. The approved details, including all obscure glazing, shall be retained as such thereafter.
- 5) The development shall be carried out in accordance with the drainage details shown on the submitted drawing Ref External Works General Arrangement - Re: 7992/020 Revision P2 and the Private Drainage Details - Re: 7992/022 Revision P2, both dated 8 November 2021. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and the dwelling shall not be first occupied or brought into use prior to completion of the approved foul drainage works.
- 6) All construction works and ancillary operations, including deliveries to and from the site, shall take place only between 0800 and 1800 on Mondays to Fridays, between 0900 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a remediation scheme shall be prepared and shall be subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a validation report shall be submitted within agreed timescales to, and approved in writing by, the local planning authority. The site shall not be brought into use until such time as all the validation data has been approved in writing by the local planning authority at the agreed timescales.
- 8) Within one month of the commencement of the development, details of refuse and recycling storage shall be submitted and approved in writing by the local planning authority. The building shall not be occupied until the refuse and recycling facilities have been provided within the site in accordance with the approved details and shall be retained as such thereafter.

- 9) Within one month of the commencement of the development, details of cycle parking for three cycles, including means of enclosure, shall be submitted to and approved in writing by the local planning authority. The dwelling shall not be first occupied until the cycle parking facilities have been provided within the site in accordance with such approved details. These areas shall be retained as such thereafter and not used for any purpose other than the parking of cycles.
- 10) Notwithstanding the details shown on the approved plans, within one month of commencement of the development details of the proposed parking area, including landscaping and means of enclosure to the site boundaries, shall be submitted to and approved in writing by the local planning authority. The parking area and all approved details shall be installed before the development is first occupied and thereafter retained as such.
- 11) The development shall incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A) within the parking area. All necessary trunking/ducting shall be in place prior to the first occupation of the dwelling hereby approved to enable cables to be routed to a charging point within the parking area.
- 12) All rooflights shall be non-opening below a height of 1.7 metres taken from the internal finished floor level. The rooflights shall be installed prior to the first occupation of the dwelling and thereafter retained as such.
- 13) Prior to the first occupation of the dwelling, the initial 2 metres of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.
- 14) Notwithstanding the details shown on the approved plans, the hedge to the full width of the plot frontage as shown on drawing Ref 104 revision D shall be retained to a height of no less than 1 metre above existing footway level except where shown on the approved drawing as pedestrian visibility where its height shall be no more than 0.6 metres above the adjacent footway. Should the hedge die or be damaged or otherwise be removed a replacement hedge of the same species and density shall be planted within the next planting season. Any replacement hedge shall thereafter be retained to the full width of the new plot frontage as shown on drawing Ref 104 revision D to a height of no less than 1 metre above existing footway level except where shown on the approved drawing as pedestrian visibility where its height shall be no more than 0.6 metres above the adjacent footway.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), no window, rooflight or other opening (other than those hereby approved) shall at any time be inserted in the southern elevation or southern roof plane of the dwelling hereby approved unless the window, rooflight or other opening is more than 1.7 metres above the floor of the room in which the window is installed.