



Appeal Decision

Site visit made on 4 January 2023

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/E2001/W/22/3306295

18 Orchard Lane, East Riding Of Yorkshire, Hutton YO25 9PZ

- 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 Martin Derewonko against the decision of East Riding of Yorkshire Council.
 - The application Ref 22/04600/PLF, dated 8 February 2022, was refused by notice dated 18 August 2022.
 - The development proposed is the erection of a detached dwelling and double garage garages following demolition of builders workshop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During determination of the planning application the proposal was reduced by the removal of the bungalow unit to the rear side garden. The parties also agreed a change to the description of development. I have adopted the description of development set out in the Council's decision notice rather than the one cited by the appellant in the appeal submission as this is a more accurate description of what is proposed.
3. As part of the appeal submission, Drawing HP-153-6 - Site Section Revision C has been submitted. The Council has confirmed that this drawing was received during the application's determination, but was not made publicly viewable. It has also no objection to this drawing being considered within the appeal. Having regard to the Wheatcroft Principles¹, I have considered whether those who should have been consulted on the drawing would be disadvantaged. The drawing only clarifies the scale and separation between the proposal and the existing dwellings and would not change its design. Furthermore, all parties have had an opportunity to comment on this information during this appeal. On this basis I do not consider that any party would be disadvantaged by my acceptance of the drawing. I have proceeded with the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

- the living conditions of the neighbouring occupiers at 18 Orchard Lane with respect to outlook and light and at 14 St Peters Close with respect to outlook.

Reasons

Character and appearance

5. The appeal site consists of an area of raised land to the rear of the dwelling at 18 Orchard Lane (No 18). This two-storey detached dwelling has a rear conservatory. The site is part rear garden and partly covered by a detached single storey workshop building. The surrounding properties are a mix of detached and semi-detached bungalows and two-storey dwellings which mostly sit within relatively spacious plots. This open character gives the area a rural village feel.
6. The proposal would introduce a new large dwelling within the rear garden. With its two-storey height and raised garden position it would dominate the rear space, undermine the current openness, and reduce the separation between properties. While public views to the proposal would be limited, it would still be highly visible from the rear of No 18 and a variety of views from neighbouring properties on St Peters Close and their gardens. The visual impact in terms of scale and dominance would not be removed or reduced by the proposal's hip roof construction or use of materials consistent with the area. While replacing the large workshop with smaller and more discrete garages would be less imposing and a more attractive design than the workshop, this would not remove the harm created by the proposed dwelling. Overall, the proposed dwelling would look oversized and constrained within the space and would harm the character and appearance of this part of the village.
7. Reference is made to examples of similar infill and back-land development within the surrounding area. From the limited information provided the examples differ in terms of their layout, plot size and separation to neighbouring properties. In relation to St Peters Close and the Orchards, the nearest examples to the appeal site, these are predominantly lower scale bungalow developments set in a linear layout to a cul-de-sac road with relatively good separation between properties. As such they do not appear as constrained or as imposing as the proposal and are not directly comparable. Furthermore, as full details of these have not been provided I cannot be certain that the circumstances are the same as the proposal. I therefore, give little weight to them. In any event, each case should be considered on its own individual merits.
8. Consequently, the proposal would harm the character and appearance of the area. It would conflict with Policies S3, H4 and ENV1 of the East Riding Local Plan 2012-2029 (Local Plan) and Section 12 of the National Planning Policy Framework 2021 (the Framework). Together these policies seek, amongst other matters, for new development to be to a high-quality design which is commensurate with the scale, role and character of the area.

Living conditions

9. The proposed dwelling with its high boundary fence would be located close to No 18's rear elevation, conservatory and retained garden. The proximity of the proposed fence and dwelling would significantly reduce the outlook from these

areas. It would introduce a dominant and largely blank fence and wall expanse into what was a clear and relatively open space. The proposal would therefore appear as an overbearing feature and harm the occupiers of No 18's outlook.

10. With the proposal's orientation to the south of No 18, it would, as highlighted on the appellant's Drawing HP-153-10 - Sunlight Survey Revision A, likely reduce the sunlight to a large part of the rear area during the day. It would therefore increase overshadowing of No 18 and its garden.
11. The proposal would replace the workshop located along the rear boundary of 14 St Peters Close (No 14) with two closer but smaller and less imposing detached garages. It would still, with the addition of the proposed dwelling, significantly increase the overall built form to this boundary. Even with the proposed garages and dwelling's hip roof construction, the effect of the proposal would be to create a much more overbearing and enclosing outlook to No 14 than its current workshop and open garden view. The oblique building angle of No 14 to the boundary would do little to mitigate this as the boundary would remain highly visible from the house and garden.
12. For the above reasons, the proposal would result in harm to the living conditions of the neighbouring occupiers at No 18 with respect to outlook and light and No 14 with respect to outlook. It would conflict with Policy ENV1 of the Local Plan and Section 12 of the Framework which seek, amongst other matters, for new development to have regard to the amenity of existing properties.

Other Matters

13. The site is located within the Hutton Conservation Area (HCA) which is characterised, within the Hutton Conservation Area Appraisal 2006, as a small primarily residential settlement which has grown up around an agricultural base. The significance of the HCA comes from it containing most of the older buildings within the village which are located around the focal point of the Grade II listed St. Peter's Church. While the boundary to the HCA has been drawn to exclude many of the new developments within the village, the appraisal acknowledges that some modern housing does fall within it. However, due to these modern areas being limited in extent and typically at the extremities of the HCA's boundary, the appraisal assesses these as having a neutral effect on the HCA as a whole.
14. The proposal would be located to the north-eastern fringe of the HCA. It would sit within a modern part of the HCA and adjacent to the modern development beyond. While it would look oversized and constrained within the space, it would be a modest addition to the outer edge of the HCA. It would therefore not harm the character and appearance of the HCA when taken as a whole. In relation to the Grade II Listed St. Peter's Church which sits at the heart of the HCA, due to the proposal's location and separation from the church and its grounds, views would be very limited. As such the proposal would not harm the listed building or its setting.
15. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Furthermore, paragraph 199 of the National Planning Policy Framework 2021 (the Framework) requires that when considering the impact of the proposed development on the significance

of a designated heritage asset, great weight should be given to the assets conservation. For the reasons set out above, the proposal would have a neutral impact (i.e. no harm) upon the HCA and would thus conserve it as a heritage asset.

16. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering applications which affect Listed Buildings that special regard is paid to the desirability of preserving the building or its setting. As indicated above, the proposal would have a neutral impact (i.e. no harm) upon the church and its grounds and would therefore preserve its special interest and setting.
17. Within the appeal documentation, reference is made to the proposal allowing accommodation for family members who, in the future, could provide care for the appellant. However, no details regarding this need have been provided. I have therefore given this matter little weight in my decision.
18. It is noted that the replacement of the commercial workshop to residential use would be more in keeping with the area. Although this may be the case, it would not outweigh the harm to the character and appearance of the area and the living condition of neighbouring properties. It is also suggested that a separate planning application for a proposed garage to No 18 would be approved by the Council. However, no such application has been made and I give this matter little weight.
19. The appellant raises concerns regarding the Council's handling of the application in relation to its processing of updated drawings submitted and the use of delegated powers to determine the application. The updated drawing information has been considered as part of this appeal and no evidence that the use of delegated powers was not appropriate has been provided. On this basis there is no compelling evidence before me that would lead me to come to a different conclusion to my above findings.
20. It is appreciated that the initial proposal consisted of two dwellings and, following consultation, the bungalow unit was removed from the planning application. It is also recognised that many of the concerns raised by interested parties to the proposal directly related to the bungalow unit. While I have taken this into consideration, it does not change my finding of harm to the character and appearance of the area and the living condition of neighbouring properties from the proposed two-storey dwelling and detached garages.

Conclusion

21. For the reasons given above, the development would conflict with the development plan as a whole and I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR