



Appeal Decision

Site visit made on 13 December 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2023

Appeal Ref: APP/N4720/W/22/3307680

Borlocco House, Church Street, Boston Spa, Wetherby LS23 6DW

- 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 Phil Griffin against the decision of Leeds City Council.
 - The application Ref 21/06207/FU, dated 16 July 2021, was refused by notice dated 6 May 2022.
 - The development proposed is the change of use of from a Care Home (Class C2 Use), with partial demolition, refurbishment and extension of the existing building, along with all other requisite works, to form a residential dwelling (Class C3 Use).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the appeal the Council advised that the proposed development should also have been refused against Spatial Policy 13 of the Core Strategy, Leeds Local Plan (adopted November 2014, amended September 2019) (the CS). As the appellant had an opportunity to comment on the relevance of this additional policy, and as it does not introduce any new reasons for refusal or main issues, I consider that they have not been prejudiced by my consideration of the appeal proposal against it.

Main Issues

3. The effect of the proposal on a) the character and appearance of the area and b) biodiversity and climate change.

Reasons

Character and appearance

4. The appeal site is a generously sized plot which contains the large mansion house known as Borlocco House. It is a former care home, now vacant and in a neglected state. There is a collection of single storey outbuildings to the rear of the property, which are also in a dilapidated condition. There is mature vegetation throughout the appeal site, including the well-established trees along the driveway and along the front boundary, much of which are evident from public vantage points.
5. Borlocco House has been identified as a non-designated heritage asset (NDHA). Its large scale, ornate design and many original features, which appear largely intact albeit in a poor state of repair, along with the expansive grounds in

- which it sits comfortably and subservient outbuildings to the rear, all contribute towards understanding its importance and former status within the locality.
6. The site is also within the Boston Spa Conservation Area (the BSCA), whose significance is largely derived from the high-quality materials and layout of the built environment within the village. By virtue of its characteristics as described above and for which it is designated as a NDHA, and the open and verdant setting of the site, the appeal building and site make a positive contribution to the BSCA.
 7. The proposed extension would be set in further from the boundary than the existing outbuildings. However, this existing built form is of very limited footprint with good separation between each building. They have a clear historic and functional relationship as subservient service parts of the main property. Any views which can be achieved of these buildings assist in understanding the importance of Borlocco House and how it once was used. Therefore, they do not significantly detract from its setting.
 8. To the contrary, the proposal would have a very substantial footprint, projecting to within close proximity of the north and east boundaries of the site. It would be a very large solid mass with a lengthy projection across more of the site which is currently undeveloped. This, along with the subsequent erosion of the space around the building, would considerably reduce the existing feeling of spaciousness, to the extent that the resultant building would appear cramped within this corner of the site. Overall, the proposal would be a very unsympathetic addition which, despite its single storey scale and flat roof design, would totally overwhelm and dominate the building and layout of development within this plot due to its sheer coverage. It would be anything but a modest or sympathetic addition.
 9. I appreciate that the proposal is a contemporary design response which incorporates a mix of stone and brick to match the existing building and that the glazed link seeks to provide a visual separation between the old and the new, whilst ensuring a degree of continuity. However, despite its single storey height, the flat roof design combined with the large footprint gives the proposal a strong horizontal emphasis which would jar with the more compact form and arrangement of the original building. The proposal would fail to have a domestic appearance due to its substantial footprint and design. Overall, it would be a harmful and dominant design response which would not harmoniously blend with the original building.
 10. Examples of various contemporary developments to other historic buildings and buildings within conservation areas within the borough and elsewhere have been provided. However, the design of developments are to be considered on their own merits and each example cannot be considered directly comparable to this proposal.
 11. The sweeping, tree-lined driveway, which opens out to views of the existing building set commensurately within its plot assists in creating a very grand sense of arrival at the front/side of the historic property. The existing outbuildings do not interfere with this first impression of the host building. The proposed extension would be readily apparent from the approach and from within the grounds. Its design and siting would compete with the building's dual frontage, as it would jar markedly with and detract from its proportions and layout.

12. The appeal building is set well back from the highway, thus views of it are somewhat restricted. However, at certain times of the year, when the trees would not be in full leaf, glimpses of the building and subsequently, the proposal, would be achieved from the public realm and the BSCA. I also note that various trees within groups along the boundaries are proposed for removal, thus increasing the potential for views. The design of the proposal, along with the erosion of the space around the building, would be overbearing to and erode the grandeur of Borlocco House and would fail to respect the verdant setting of the site. This harm would not be overcome by the proposals green roof design. As such, the proposal would reduce the positive contribution the appeal building and site make to the BSCA.
13. Additionally, it seems to me that a considerable proportion of the proposed development would at times be readily apparent from neighbouring sites, particularly the adjacent site which is allocated for housing, due to the erosion of space in this corner of the site and subsequent limited space to introduce soft landscaping in this location.
14. As noted, there are numerous mature trees and landscaping within the appeal site which make an important contribution towards the sites verdant character as well as the spacious setting of the wider locality. I note that throughout the course of the planning application, following amendments to the extent of development, the trees sought for removal have been amended. I have considered this appeal accordingly.
15. There is proposed loss of individual category U trees and those within wider groups. Due to their poor condition and lack of significant contribution towards the character of the site and area, this is considered acceptable.
16. One tree to be removed appears to have suffered fire damage. Nevertheless, the Arboricultural Survey Report¹ identifies it as being of good physiological condition, in category C2, and with an estimated remaining contribution of ten years plus. As such, it should be retained as a starting point. Similarly, the other trees proposed for removal, to facilitate the development, are category B and C.
17. Various elements of the proposed development would also be within the root protection areas (RPA) of category A and B trees. Of particular concern is a large sycamore tree located close to the north west corner of the building. I note that the proposal largely follows the layout of existing outbuildings within its RPA, however there would still be a slight incursion due to the proposal's larger footprint.
18. This would be within the recommended minimum distance outlined in the Council's Guideline Distances from Development to Trees: Securing Space for Existing and New Trees (March 2011, revised June 2020). I note that this distance is a guideline only and may be altered depending on the particular situation. I also note that the effects on the tree could be managed through ground protection measures.
19. Nevertheless, this tree also requires crown lifting pruning works to provide clearance for construction. Given the scale of the development and the slight incursion into the RPA, I am concerned that, overall, the proposed development

¹ SF3178 Borlocco House, Boston Spa, Arboricultural Survey Report, Revision A – July 2021, Smeeden Foreman.

- could cause compaction damage to soils and roots during construction, and that the reduced space for roots would significantly decrease its life expectancy.
20. This, along with the proposed tree works, raise serious concerns in my mind as to whether this tree could survive during construction works for the proposed development and that long term harm may occur. This tree makes a positive contribution to the character of the site, thus the crown lifting, along with the potential for serious harm, would diminish its value and contribution, thus should be strongly mitigated against. I consider that there is no overriding justification for development in this location.
21. I note the Council's concerns regarding where the provision of 3:1 tree replacement would go. The appeal site is of a very generous size and I consider the required replacements could be secured by condition which ensure a useable garden space for the size of the dwelling is retained, in accordance with the guidance in the Neighbourhoods for Living: A guide for residential design in Leeds (December 2003) (the SPG).
22. I also note that land to the south of the site, which was originally within the red line site plan and is within the appellant's ownership, may be suitable to accommodate additional, required planting. Although there is no mechanism before me to secure this, I consider that this site could accommodate the planting of the required trees without prejudicing the delivery of the housing allocation to the south and according with the assumption that no development is to take place on the southern part of that site. There is nothing before me to suggest that it would not be possible to secure this.
23. Nevertheless, the loss of and potential damage to the aforementioned trees along the northern boundary of the site, and lack of opportunities for compensatory planting in this location due to the footprint and positioning of the proposed extension, this element of the proposal would further exacerbate the proposals harmful effect on the setting and character of the building and the wider site. I am not convinced that additional planting around the site would satisfactorily mitigate against this harm.
24. I do not doubt that the large site and building could accommodate some form of additional development. Indeed, I note the aspects of a previous scheme which were considered acceptable². Whilst the appeal proposal represents a relatively modest build to plot ratio and increase in floor space, the suitability of proposed development is assessed on a range of particular circumstances and, by virtue of all of the above factors, the appeal proposal is considered to result in the harm I have identified.
25. Taking all of the above into consideration, the proposed development would harm the character and appearance of the area, including the significance of the BSCA and the NDHA. It would therefore be contrary to Policies P10, P11 and P12 of the CS, saved Policies BD6, N19 and LD1 of the Leeds Unitary Development Plan (Review 2006) (the UDPR), Policies DEV2, DES1, DES2, T1 and T2 of the Boston Spa Neighbourhood Development Plan: Planning for a Successful Future 2012-2028 (the NP). Whilst varying slightly in their wording, these policies have the collective aim of ensuring that developments are of a high quality design which is appropriate to its context, respects and enhances

² Application Ref: 19/00664/FU

the character of the townscape and landscape and conserves and enhances historic assets.

26. The proposal would also fail to accord with the guidance in chapters 12 and 16 of the National Planning Policy Framework (the Framework) and Policy LAND2 of the Leeds Local Development Framework, Natural Resources and Waste Development Plan Document (January 2013) (the NRWDPD) which seek to ensure that proposals are sympathetic to local character, conserve the significance of heritage assets and conserve trees wherever possible.
27. There is an overarching statutory duty to preserve or enhance the character or appearance of the conservation area imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the proposal is harmful to the significance of the BSCA, along with the harm arising from its effect on Borlocco House as a NDHA, it would neither preserve or enhance their character or appearance. Given the scale of the development, this harm would be less than substantial. Paragraph 202 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I shall consider these below.

Biodiversity and Climate Change

28. The Council has raised concerns that the proposal would result in a net loss of biodiversity as there is no mechanism to deliver off-site biodiversity works and that the appellant's approach to biodiversity is flawed.
29. I note the guidance in The Biodiversity Net Gain: Good Practice Principles for Development document published by the Chartered Institute of Ecology and Environmental Management, which makes it clear that loss of biodiversity should be avoided in the first place, following which compensation for losses that cannot be avoided would be sought.
30. However, Policy G9 of the CS sets out criteria for biodiversity improvements. It states that development will be required to demonstrate that there will be an overall net gain for biodiversity commensurate with the scale of the development, including a positive contribution to the habitat network through habitat protection, creation and enhancement.
31. With this appeal, the appellant submitted an updated Biodiversity Net Gain Assessment³ to account for the red line boundary change. This indicates a biodiversity net gain through a combination of on and offsite measures. Whilst I note there is no method to secure the off-site biodiversity works, the on-site gain of habitat and hedgerow units would nevertheless be above 10%.
32. There is no conclusive evidence before me that the proposed planting and green roof, which would achieve the proposed biodiversity net gain, cannot be delivered. However, even if this were to be the case, I do not doubt that a suitable mechanism could be agreed which ensured that the site edged blue could be utilised to achieve an off-site gain.
33. I have already found harm with regards to the loss of the trees within the appeal site in terms of the character and appearance of the area. Notwithstanding this however, although any replacement trees may take a

³ Report Reference: ER-5451-03B

significant time to reach similar levels of carbon sequestration and absorption of particles achieved by the existing mature species, the higher number of replacements would nevertheless result in a greater effect in due course.

34. Overall, the proposal would provide biodiversity enhancements and would not result in significant harm to climate change. It would therefore accord with Policies P10, P12, G2, G8, G9 and Spatial Policy 13 of the CS, saved Policies GP5, N24 and LD1 of the UDPR and Policies T1, T2 and T4 of the NP which collectively seek to ensure that developments and landscaping respect and enhance existing trees, landscapes and habitats.
35. It would also accord with the guidance set out in Policy LAND2 of the NRWDPD and the Framework in respect of conserving and providing tree planting, providing net gains for biodiversity and mitigating against climate change.

Planning Balance

36. This proposal would deliver one unit of accommodation in an accessible location. It would ensure the reuse and retention of Borlocco House, which has suffered from vandalism. The proposal would also create jobs during construction and generate economic benefits on subsequent occupation. It has also been indicated that energy efficiency and sustainable drainage measures would be incorporated.
37. In such terms, these matters can be considered as being public benefits. However, there is no compelling evidence before me to suggest that the future of Borlocco House would be under threat in the event of planning permission for the proposal being withheld, particularly as during my site visit works to the building appeared to be underway. Moreover, the small scale of the proposal means that such benefits are afforded no more than limited weight.
38. As a biodiversity net gain is required by the development plan, this matter does not constitute a benefit of the proposal and thus does not carry any positive weight in the planning balance.
39. The Framework is clear that irrespective of the level of harm to the significance of the heritage asset, great weight should be given to the asset's conservation. As such, taking all of the above into account, including the comments made in support of the development, the benefits of the proposal would not outweigh the identified harm to the BSCA and Borlocco House.

Conclusion

40. For the reasons given above, the proposal conflicts with the development plan as a whole, and the other considerations, including the Framework, do not indicate a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

H Ellison
INSPECTOR