



Appeal Decision

Site visit made on 2 May 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2023

Appeal Ref: APP/E2001/W/22/3313058

Hagnaby House, 30 Highgate, Cherry Burton HU17 7RR

- 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 West against the decision of East Riding of Yorkshire Council.
 - The application Ref 21/03429/PLF, dated 10 September 2021, was refused by notice dated 3 October 2022.
 - The development proposed is four dwellings and site access driveway.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr West against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted a planning obligation as part of the appeal documentation by way of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990. This provides for contributions to offsite affordable housing and open space provision and highways works.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area including the setting of the Cherry Burton Conservation Area (the CA);
 - whether the proposal would provide acceptable living conditions for future occupiers with regard to outdoor amenity space; and
 - the effect of the proposal on the living conditions of neighbouring residents with regard to noise and disturbance.

Reasons

Character and Appearance including the Setting of the CA

5. The appeal site is located on the western edge of the village behind several dwellings. The proposed access would be from Highgate.
6. A small part of the site is within the CA. The significance of the CA lies in part from the vernacular architecture and the relationship of the buildings with the

roads and public spaces, including the linear form of built development along Highgate and much of Main Street in the west where many properties are at back-of-pavement-edge, contrasting with the more open eastern end with the village pond and parklands. The undeveloped fields around the village, together with the grass verges and roadside hedges and trees on the approaches to the village provide an attractive landscape with an open rural character and appearance. This contributes positively to the setting of the CA.

7. The site other than the access lies within the south western part of a housing allocation under Policy CHER-A of the 2016 adopted East Riding Local Plan Allocations Document (the ERLPAD) and within the development limit. Four dwellings have been completed within the allocation. Subsection C of Policy S4 of the 2016 adopted East Riding Local Plan Strategy Document (the ERLPSD) states that land will be regarded as the Countryside outside of a development limit. The proposed access would be in the Countryside, where Policy S4 supports only limited forms of development.

Site Access

8. There is disagreement between the main parties as to whether the proposed access would fall within the scope of "new and enhanced infrastructure" which is one of the forms of development supported by subsection C of Policy S4. The examples given in the supporting text for the policy are water management schemes, energy development and infrastructure, transport schemes in accordance with Policy S8 (the criteria of which appear to be aimed at securing a well developed and integrated transport system) and telecommunications infrastructure.
9. To my mind, these examples indicate that development envisaged under 'new and enhanced infrastructure' is aimed at the types of services and facilities necessary to support the wider Plan objectives which out of necessity may require a Countryside location. I am not persuaded that it would include an access road to a housing scheme.
10. Nevertheless, even if I were to accept the appellant's argument, subsection C of Policy S4 still requires the specified forms of development to respect the intrinsic character of their surroundings. In addition, the supporting text states that new and enhanced infrastructure will be supported where they require a Countryside location for operational reasons.
11. The site allocation boundary under Policy CHER-A indicates that access to the allocation is envisaged through Manor Farm which is towards the main part of the village and within its development limit. This is not what is proposed. Although the appellant highlights that the site access envisaged in the allocation is in different ownership, there is nothing before me to suggest that it would not be available within the plan period. In this regard, I note that the Council is not proposing to amend the development limit boundary in this location through its local plan review exercise. Furthermore, it is not disputed that the local planning authority (LPA) is able to demonstrate more than a five year supply of deliverable housing sites and so the presumption in favour of sustainable development at paragraph 11 of the National Planning Policy Framework (the Framework) is not engaged.
12. The boundary wall in front of Hagnaby House, which is also apparent to the front of the adjacent dwelling, is a noticeable feature in the street scene when

looking along Highgate towards the open countryside beyond the village. The end point of this wall together with the hedge and trees which provide a well-defined western boundary of the village present a visual edge between the built-up form of the village and the open rural landscape beyond. The proposed access would be just beyond these features.

13. I note the appellant's comment that the proposal would make use of a historic existing access. However, this is a small opening that the submitted evidence shows was a field access before it was laid with hardcore to facilitate the construction of a dwelling.
14. The proposal would involve the enlargement and surfacing of the bell mouth with aggregate concrete. The existing track would be widened and surfaced with gravel with a grass strip along the middle. It would be around 2.75 metres for some of its length, although two passing places are shown, and it would be wider for a length from the junction with Highgate. Furthermore, to allow for an enlarged access point together with visibility splays would require the removal of part of the roadside hedge, although some infill planting is proposed. The hedge contributes positively to the rural character and appearance of the area at the entrance into the village.
15. The alterations required to the existing access point in terms of widening, the consolidated surfacing and the provision and maintenance of the necessary visibility splays would have something of an encroaching urbanising effect on this part of Highgate rather than providing a comfortable transition into the countryside, as is the case with the existing opening and track at present. As a result, there would be views of a more intensive developed frontage, reinforced by increased traffic generation, which would encroach into the rural landscape on the edge of the village and detract from the rural character and appearance of the area.
16. The appellant has drawn attention to a proposal¹ for an access to serve a dwelling that was permitted by the Council which it is contended is like the proposed access. In this example, the officer report sets out that the proposed access road would not fall within any of the categories for development in the Countryside outlined in subsection C of Policy S4 of the ERLPSD, but it was required in connection with an extant permission for a new dwelling. While there may be some similarities in the nature of the roads, there would be a different intensity of use with the appeal proposal, and it is in a different area. Therefore, I cannot be certain that the effect on the character and appearance of the area would be directly comparable. In any event, I have evaluated this appeal on its individual planning merits.

Dwelling 5

17. The site's location on the edge of the village makes it particularly sensitive, as it provides a transition between the built-up form of the village and its open countryside setting. This is recognised in Policy CHER-A of the ERLPAD, which sets out that additional landscaping will be required to the north western and south western boundaries of the allocation, which includes the appeal site, to help soften the impact of development and integrate it into the surrounding landscape.

¹ Application reference 17/04299/PLF

18. Dwelling 5 would be of a substantial size, with a height of over 8 metres in parts, accommodation over three floors and extensive glazing including on its south western elevation. It would also include several outbuildings. In comparison to the other dwellings proposed, it would be notably larger. This dwelling would be located very close to the south western edge of the site allocation boundary and also the development limit boundary of the village. Owing to this, very little room would be left for the landscaping envisaged in Policy CHER-A of the ERLPAD. The lack of space would prevent any meaningful additional planting, nor would it likely allow large trees to develop to maturity.
19. Consequently, while the proposed dwelling would be on a similar line to the property identified as 'dwelling 4' and Hagnaby House, it would incorporate several architectural details and materials that are reflective of the vernacular architecture, and its design would not be unpleasant when viewed in isolation, its effect on this site would be that of an uncharacteristically large dwelling intruding into the countryside. Furthermore, due to the positioning of dwelling 5 so close to the boundary, the development would have a hard abrupt urban edge that would fail to provide an appropriate transition to the rural landscape beyond.

Balance and Conclusion on Character and Appearance including the Setting of the CA

20. The appellant argues that the site is generally screened from public vantage points by existing hedges which could be retained at a set height through a planning condition. The hedges identified by the appellant are established hedges that provide some screening to the site, although there would likely be glimpses of the built form in the autumn/winter months. However, notwithstanding that these are identified as being within the appellant's ownership, it is unlikely that they would endure for the lifetime of the development. Vegetation is not permanent and should not be relied upon to hide poorly designed development from view.
21. In any event, even with the screening in place, the works proposed to form an acceptable site entrance and driveway would result in more open views of the access and towards the site. Therefore, the access and dwelling 5 would be conspicuous from this localised view.
22. Overall, therefore, rather than managing the transition between the edge of the village and the open rural landscape beyond, the proposal, due to the location of the proposed access and the scale and position of dwelling 5, would result in an incongruous visual intrusion at a sensitive edge of the village. This would be harmful to the character and appearance of the area including the setting of the CA.
23. Amongst other considerations, paragraph 197 of the Framework states that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets. In terms of the Framework, I assess the harm to the CA as less than substantial. That is as only part of the setting of the CA would be affected. Even so, paragraph 199 of the Framework directs me to give 'great weight' to the conservation of such assets; less than substantial harm does not equate to a less than substantial planning objection, especially where national policy expectations for conserving such assets have not been met. In such circumstances, paragraph 202 of the Framework states that the harm should be weighed against the public benefits of the proposal.

24. The appellant identifies that a contribution would be made to offsite affordable housing and open space provision and to enable the relocation of the nearby highway signs and alteration of road markings. These could be considered as public benefits. However, the contributions towards affordable housing and open space would be modest. Furthermore, along with the highways works, these would be needed in any event given the requirements of the development plan.
25. The proposal would contribute (numerically) to housing supply on an allocated site within a Primary Village which includes a range of services and facilities. However, I do not afford such a benefit very significant weight in the context of the LPA being able to demonstrate more than a five-year supply of deliverable housing sites and given the quantum of houses proposed.
26. There would be some economic benefits during construction and occupation, for example in the latter instance via local spend and support given to the use of local services and facilities. Those implications may be considered positive public benefits, however the weight that I can ascribe them in terms of four new homes is relatively limited.
27. Collectively, the above public benefits are not sufficient to outweigh the less than substantial harm caused to the designated heritage asset. They do not represent 'clear and convincing justification' for harm to or loss of significance of the designated heritage asset, as required by paragraph 200 of the Framework.
28. For the reasons outlined above, the proposal would conflict with Policy S4 of the ERLPSD and Policy CHER-A of the ERLPAD, the most relevant requirements of which have been summarised above. There would also be conflict with Policies ENV1 and ENV2 of the ERLPSD where they require development to be well designed, appropriate to its context, incorporate appropriate landscaping, and retain important hedgerows; the design objectives of paragraph 130 b) and c) of the Framework; and paragraph 174 of the Framework which requires decisions to recognise the intrinsic character and beauty of the countryside. The proposal would also conflict with Policy ENV3 of the ERLPSD where it requires the significance of heritage assets to be conserved and public benefits to outweigh the harm, and paragraphs 197, 199 and 202 of the Framework, as summarised above.
29. The Council refers to paragraphs 78 and 79 of the Framework in its first reason for refusal. These paragraphs relate to rural housing. They set out the need to support developments that meet local needs, the approach to exception sites and that housing should be located where it will enhance or maintain the vitality of rural communities. The proposal is not an exceptions site, there is no evidence before me to suggest that it would not meet local needs and the housing on the site would be within a Primary Village where Policy S3 of the ERLPSD is supportive of appropriate residential development to sustain the overall vitality of rural areas. I therefore find no conflict with these paragraphs although this does not alter my conclusion above. This is also the case with the inclusion of paragraph 190 of the Framework in reason for refusal two, which sets out the requirements for plans in relation to the historic environment as opposed to decisions.

Living Conditions – Future Occupiers

30. While the Council has referred to 10 metres as being the normally accepted garden length, I have not been referred to any quantitative standards for private outdoor amenity space contained within the development plan or associated guidance. The Council identifies that dwelling 7 would have a rear garden of around 5.5 metres in length and dwelling 8 around 5.7 metres. The width of both gardens would be greater. The appellant's evidence sets out that the total area for dwelling 7 would be about 91 square metres (m²) and dwelling 8 would be about 183 m². It is not clear from the appellant's evidence whether the total figures given include the area in front of the dwellings. This area is proposed as a shared space providing access to the parking areas/garages, and so would not provide the same function as a private outdoor amenity space.
31. The rear gardens of dwellings 7 and 8 would not be large for three-bedroom dwellings, especially as they could reasonably provide accommodation for families. This is the case for dwelling 7 in particular. The area would be shallow which would limit its practical value as attractive private amenity space and for meaningful family related activities such as childrens' play. A relatively limited outlook would be provided when in the outdoor amenity area due to the shallow nature of the space. It would seem more confined due to its position in relation to dwelling 6 which would be close to its north west boundary. This could be restricted further depending on the boundary treatment. However, notwithstanding these concerns, I am not persuaded that the size or nature of the private outdoor amenity space for dwelling 7 would be so detrimental to the living conditions of future occupiers to warrant refusal of the proposal.
32. While some of these concerns also apply to the outdoor amenity area for dwelling 8, this property would have additional space to the side which would extend the private space available, including the provision of an area with greater depth. In my view therefore, an adequate private amenity space would be provided for this dwelling.
33. Although described as a four-bedroom property, dwelling 5 would be a substantial size and could reasonably be expected to accommodate a large family. The only private outdoor amenity space would be the paved courtyard and a narrow garden on the north west boundary. The usability of the garden would be affected by the shade of the not insubstantial stable, tack room and feedstore building along almost the full length of its south east boundary. There would also be an open area to the front of the dwelling that would face onto the access and turning area of the development and would not therefore provide a private outdoor space.
34. I note the appellant's contention that the design of dwelling 5 goes far beyond the amenity provision afforded by most average dwelling plots in the village given the range of outbuildings including stables, tack room, storeroom and an open log store. However, these do not provide the same function as a private outdoor amenity space. Overall, I am not persuaded that the nature and size of the outdoor amenity space would be reasonable for a large family dwelling or would provide future occupiers with an adequate or satisfactory form of outdoor amenity space.
35. While the private outdoor amenity area proposed may be similar to the existing dwellings to the south east, the evidence indicates that there was a particular

set of circumstances that applied to that scheme, notably that it enabled a conversion that provided an overall enhancement to the site and buildings. The appellant has highlighted a development² elsewhere in the village that it is contended provides garden sizes similar to those proposed in terms of plot size to garden size ratio. However, none of the dwellings appear to have the same characteristics as dwelling 5. I cannot therefore draw any direct comparisons that would weigh in favour of the proposal. In any case, I have considered the appeal proposal on its merits.

36. Consequently, I conclude that the proposal would not provide acceptable living conditions for future occupiers of dwelling 5 with regard to outdoor amenity space. It would therefore conflict with the residential amenity requirements of subsection B.4 of Policy ENV1 of the ERLPSD and paragraph 130 f) of the Framework.

Living Conditions – Existing Residents

37. The proposed access road would run parallel to the dwelling referred to as 'dwelling 4', including its sunroom, windows serving habitable rooms and garden. This dwelling is set back from the main road and is screened from it by other properties. Vehicle movements arising from four additional dwellings would therefore create a degree of noise and disturbance not currently experienced by residents of this dwelling.
38. However, the separation distance together with the landscaping between dwelling 4 and the access road would ensure that the proposal would not significantly compromise residents' enjoyment of the dwelling or the living conditions that its residents could reasonably expect to enjoy.
39. I therefore conclude that the proposal would not be unacceptably harmful to the living conditions of residents of dwelling 4 with regard to noise and disturbance. Accordingly, it would not conflict with the residential amenity requirements of subsection B.4 of Policy ENV1 of the ERLPSD and paragraph 130 f) of the Framework.

Conclusion

40. The proposal would harm the character and appearance of the area including the setting of the CA and would not provide acceptable living conditions for future occupiers of dwelling 5 with regard to outdoor amenity space. Although I have found that the proposal would not cause unacceptable harm to the living conditions of nearby residents with regard to noise and disturbance, this is a neutral factor and does not outweigh the harm that I have identified.
41. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR

² Application reference 18/03576/PLF