



Appeal Decision

Site visit made on 17 May 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Appeal Ref: APP/N2739/W/23/3314016

Yew Tree House, Main Street, Kelfield, Selby, North Yorkshire YO19 6RG

- 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 Richard Atkinson against the decision of Selby District Council.
 - The application Ref 2022/0623/FUL, dated 25 May 2022, was refused by notice dated 1 November 2022.
 - The development proposed is the construction of a single storey dwelling to replace existing building.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by the appellant against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Planning permission for the proposal was refused by Selby District Council, which at the time was the Local Planning Authority (LPA) for the area. On 1 April 2023 North Yorkshire Council was created and is now the LPA for the area previously covered by Selby District Council. In my Decision I do not differentiate between the two Councils, given their respective functions as LPA.

Background

4. The proposal would involve the creation of a new vehicular access and drive to serve the proposed bungalow. This would be constructed along the same route for which approval of reserved matters was granted in April 2022 for a proposal for six dwellings (LPA Ref. 2022/0050/REM), albeit the proposal before me would involve extending that route further beyond the boundary of that approved scheme through the creation of a 3m wide gravel driveway to serve the proposed bungalow.
5. Prior to the determination of the planning application associated with this current appeal, another proposal for approval of reserved matters for a housing scheme comprising six dwellings on the horticultural smallholding was allowed on appeal in July 2022 (Appeal Ref. APP/N2739/W/22/3290831). This is an alternative scheme to those reserved matters approved by the Council under the application Ref. 2022/0050/REM. The more recent approval includes a different layout and a modified access road, and it is apparent from the plans

made available to me that only one of those approved schemes could be implemented.

6. The appellant indicated to the Council in July 2022 that he was happy to amend the plans to show access to the proposed bungalow being taken from the more recently approved scheme. However, the information provided to me does not demonstrate that this was a formal request to amend the proposal, and while I have not seen the details, I note the appellant's reference to a further planning application having been made and refused for a similar proposal to that before me, but utilising an alternative means of access.
7. The Council determined the planning application for the proposal based on the original plans, including the proposed site, landscaping and drainage layout (Drawing 102). While I note there may be alternative access arrangements for approved housing schemes on land in the appellants control, no compelling justification has been presented by the appellant indicating why I should not determine the appeal on the same basis as the Council did using the original plans, and that is what I have done.
8. Furthermore, I disagree with the appellant's assertion that my consideration of an alternative means of access to that on which the Council's decision was made would meet the principles established in the Wheatcroft judgement¹. The proposal before me would be fundamentally altered were an alternative means of access proposed, notwithstanding any similarity that access may have with other development that may have been allowed. The fact remains that there has been no specific consultation with neighbours adjoining the appeal site about the alternative scenario raised by the appellant. For that reason alone, my consideration of such an alternative scenario that is so changed would deprive those who should have been consulted on the changed development the opportunity of such consultation.

Main Issues

9. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the appeal site is a suitable location for housing having regard to development plan policies; and
 - whether suitable means of vehicular access would be provided to serve the proposed dwelling.

Reasons

Character and Appearance

10. The appeal site is located on the edge of Kelfield, a small, relatively quiet rural village comprising a mix of attractive traditional and modern buildings, most of which are dwellings. The buildings along Main Street generally sit close to the road with several having long drives leading to detached garages and outbuildings in long rear gardens. In this respect, the proposal being positioned behind frontage development on Main Street would not appear particularly unusual or out of place in its context.

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

11. The predominant building materials throughout the village are red brick and red profiled roof tiles, interspersed occasionally with buildings having rendered external walls which are generally painted white. This limited palette of facing materials provides a pleasantly consistent regularity and gives a degree of local distinctiveness to the appearance of the village.
12. The site contains a substantial steel framed greenhouse which comprises part of a horticultural smallholding which, at the time of my visit, appeared to be in active use for the production of fruit and vegetables.
13. There are limited views of the greenhouse from public vantage points within the village, and it is largely obscured from view from the countryside beyond the smallholding by substantial vegetation. However, the greenhouse can be seen from rear windows of adjacent houses on Main Street. When viewed from those dwellings and from locations within the smallholding, due to its proximity to the boundaries of neighbouring dwellings, and as a result of its positioning within a corner of the smallholding, notwithstanding the location of the development limits defined in the Selby District Local Plan Adoption Draft, Part 1 General Policies (February 2005) (the Local Plan), the greenhouse appears as an established part of the built-up area of the village.
14. The Planning Statement submitted in support of the original planning application states that 'Policy SP19 [of the Selby District Core Strategy Local Plan (October 2013) (the Core Strategy)] relates to design quality and will be of more relevance to the reserved matters application'. However, the appeal follows the Council's decision on an application for full planning permission. Accordingly, having regard to the Council's reasons for refusal, it is appropriate that I consider and determine the proposal before me in accordance with Policy SP19 of the Core Strategy, alongside other relevant policies of the adopted development plan, and any relevant material considerations.
15. The proposed dwelling would be taller at the ridge of its pitched roof than the highest part of the greenhouse by around 0.9m. This would result in it being more prominent in views from nearby houses. This increase in height above that of the existing greenhouse would not in itself result in a building that would appear out of scale in its context having regard to the height of detached outbuildings at nearby dwellings including those at Glen House and Paddocks View on Main Street. Furthermore, despite falling outside the development limits in the Local Plan, I am satisfied that the position of the proposal would relate closely to the built form of the settlement.
16. However, the proposed use of horizontal untreated timber boards for the walls, and grey box profile sheeting for the roof would clash markedly with the predominant and characteristic facing materials found in the majority of the dwellings in the village.
17. I saw that the outbuildings associated with the horticultural business are constructed in blockwork, corrugated sheeting materials and timber cladding. As such they reflect their agricultural use and are visibly different from the housing in the village. However, the proximity of such buildings to the appeal site does not justify the use of similar materials in the construction of the proposed dwelling having regard to its context in a small village where the dwellings exhibit a consistent and distinctive general overall appearance.

18. Furthermore, while I have determined the appeal on its own merits, from information provided by the appellant, it would appear that disposal of the land on which approval of reserved matters for those other schemes comprising six dwellings is at an advanced stage, with the appellant confirming that the land required to implement those schemes has been sold subject to contract. I have not been provided with evidence to suggest that either of those schemes would not be implemented, and I note that both approved schemes would involve the demolition of the existing agricultural buildings on the smallholding.
19. Paragraph 126 of the National Planning Policy Framework (the Framework) advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve; and that good design is a key aspect of sustainable development. Paragraph 130 of the Framework requires that decisions should ensure that developments add to the overall quality of the area; are visually attractive as a result of good architecture; are sympathetic to local character and history, including the surrounding built environment; and maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. Notwithstanding their age, the relevant development plan policies are consistent with the Framework in these respects.
20. The proposal would result in the creation of a dwelling that would appear incongruous in its context due to its utilitarian appearance and the use of inappropriate, unsympathetic and uncharacteristic external materials. As a result, the proposal would fail to meet the fundamental expectations of the planning and development process as expressed in the Framework in respect of achieving high quality, beautiful buildings; and it would fail to add to the overall quality of the area.
21. Furthermore, the supporting text to Policy ENV1 of the Local Plan at paragraph 4.23 advises that: *'sensitivity in the choice of building materials is one of the most critical factors in integrating new buildings into both established built-up areas or remote countryside locations.'* The proposal fails to have regard to this advice in respect of the choice of building materials proposed.
22. For these reasons the proposal would harm the character and appearance of the surrounding area. As such, it would conflict with Policy SP19 of the Selby District Core Strategy Local Plan (October 2013) (the Core Strategy), and Policy ENV1 of the Local Plan which, in summary, require development to be of high-quality design having regard to local character, identity and context. The proposal would also conflict with paragraphs 126 and 130 of the Framework in these respects.

Suitable Location for Housing

23. The appeal site is located in the countryside beyond the development limits for Kelfield defined in the Local Plan. However, in such locations Policy SP2 of the Core Strategy supports development in a limited set of circumstances. Of specific relevance to this case is the provision at Policy SP2 A (c) of the Core Strategy that allows for the *'...replacement or extension of existing buildings...'*. This is caveated by the requirement that support will be given to development *'...which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13'*.

24. Policy SP13 concerns the scale and distribution of economic growth, and it provides general support for the development of businesses, including in rural areas. However, it is not a policy that is directly relevant to the determination of proposals for residential development.
25. The Planning Officer's Report states that the proposal '*...cannot be regarded as a direct replacement for a like for like structure.*' However, this is not expressly required by Policy SP2. I have been provided with no further definition or glossary of terms associated with the relevant development plan policies to assist in understanding any limitations in respect of replacement buildings. Furthermore, the supporting text to the Core Strategy does not assist the Council's case in explaining their position on this matter. Unlike, for example, the provision for replacement buildings in the Green Belt given at paragraph 149 d) of the Framework which requires a replacement building to be in the same use and not materially larger than the building being replaced, I have been shown no similar limitation related to Policy SP2.
26. I understand the term 'replacement' to mean one thing taking the place of another. Without further specific distinction being made regarding the expected form or proposed use of replacement buildings, I am satisfied that a reasonable interpretation of Policy SP2 would conclude that it provides support for buildings of a different size and in different uses to the building being replaced. I have determined the appeal accordingly.
27. I have not been directed to, and I am not aware of any support given to the Council's position on this main issue in the Framework. However, paragraph 79 of the Framework advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and where there are groups of smaller settlements, development in one village may support services in a village nearby.
28. Kelfield is a small village located close to other larger villages, the closest being Cawood and Riccall. Although there are few services and facilities in Kelfield, both of those nearby villages appear to have several facilities that would be supported by additional residents in Kelfield.
29. I saw that there are bus stops located close to the appeal site. Nevertheless, I recognise it is likely that future residents would rely largely on private cars to travel to the nearby larger settlements to meet their everyday needs. However, paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
30. Reference is made by the appellant to a recent appeal decision where the Inspector addressed the meaning, in ordinary terms, of the wording in Policy SP2 (Appeal Ref. APP/N2739/W/20/3263035). I note the Council's comment that the proposal in that case was located next to a settlement designated as being at a higher position in the settlement hierarchy established in the Core Strategy. However, from reading the decision letter, I find the reasoning provided by that Inspector on the interpretation of Policy SP2 A (c) is generally consistent with my conclusions on this main issue.
31. With regard to the caveat given in Policy SP2 that development comprising a replacement of an existing building must contribute towards and improve the local economy and enhance or maintain the vitality of rural communities, I am

satisfied that the proposal, being located only a short distance from those nearby larger villages, would achieve these expectations. This approach is consistent with what is advocated at paragraph 79 of the Framework.

32. I note the legal opinion provided by the appellant regarding the status of the development plan. In the circumstance applicable to this case, in my judgement, Policy SP2 A(c) is not out-of-date, and my findings are consistent with the thrust of that opinion.
33. I find that the appeal site is a suitable location for housing having regard to development plan policies since it would accord with Policy SP2 A (c) of the Core Strategy which allows for replacement buildings which would contribute towards and improve the local economy and enhance or maintain the vitality of rural communities. The proposal would also accord with paragraph 79 of the Framework in these respects.
34. The proposal does not claim to be providing affordable housing. Accordingly, Policy SP10 of the Core Strategy which concerns the provision of rural housing exceptions sites is not relevant to this case.

Suitable means of vehicular access

35. The appellant comments that there is currently a single vehicular access that serves Yew Tree House, its garage, the appeal site and all other buildings and land related to the wider site. However, from what I saw during my site visit, vehicular access is currently not available directly up to the greenhouse.
36. The Council's reasons for refusal include its concerns that access to the proposed dwelling would rely on the construction of the access and driveway associated with an unimplemented permission. Furthermore, that the agricultural building through which the driveway would pass, thereby requiring demolition of that building, is not shown for demolition as part of the appeal proposal. However, that agricultural building is shown on the plans as being within the control of the appellant and this is confirmed in his Appeal Statement.
37. I recognise that the proposal does not include any statement expressly seeking permission to demolish the agricultural building currently positioned on the route of the access driveway, and that demolition is a form of development. However, it is evident from the plans that the agricultural building would need to be demolished to enable the construction of the driveway. Since the agricultural building and a substantial amount of land around it are in the control of the appellant, I am satisfied that, had the appeal been allowed, demolition of that building at an appropriate time to facilitate the construction of a means of access to the proposed bungalow could be secured by planning condition.
38. The Council expresses concern that the proposed gravel driveway would result in further incursion into open countryside. I saw during my site visit that there are few features that could be described as forming a distinct boundary around or at the outer extent of the route of the proposed gravel driveway.
39. I recognise that the approved housing scheme (Council Ref. 2022/0050/REM), if implemented, would create a distinct boundary. However, I must determine the appeal before me on its own merits and as a proposal that could be implemented in isolation or prior to that approved housing scheme. In this

respect, I have not been directed to any restrictions set out in the development plan or elsewhere that would prevent the creation of a new access and driveway to a replacement building in the countryside, including where that driveway extends beyond defined development limits.

40. The Highway Authority has raised no objection to the proposed development, subject to various conditions, principally concerning the detailed design and construction specification for the proposed access. I attach significant weight to this lack of objection.
41. I find that suitable means of vehicular access would be provided to serve the proposed dwelling. Subject to appropriate conditions, the proposal would accord with Policies ENV1, T1 and T2 of the Local Plan which, in summary, support proposals where existing roads have adequate capacity and can safely serve the development, a good quality of development would be achieved taking account of the relationship of the proposal to the highway network and the proposed means of access, and no detriment to highway safety would arise.

Other Matters

42. The creation of an additional self-build bungalow in the area would be a benefit in meeting housing needs, albeit modest in scale, and I attach moderate weight to this benefit. However, this would not outweigh the harm I have identified to the character and appearance of the area.
43. I have had regard to the examples provided by the appellant of other recent development in the area for which the Council has granted permission. These examples are provided largely to demonstrate how Policy SP2 A (c) of the Core Strategy has been applied, and how development in the countryside adjacent to other settlements has been approached. It appears from the information I have seen that each of those cases have specific and differing circumstances, and the Council has explained its approach in each of the reports I have seen. Given my findings on the suitability of the location of the proposal I need not comment further on the details provided to me on those cases.

Conclusion

44. Although I find that the proposal would be in a suitable location for housing and suitable means of access could be provided, I have found harm to the character and appearance of the area. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

David English

INSPECTOR