



Appeal Decision

Site visit made on 12 September 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2023

Appeal Ref: APP/E2734/W/23/3320932

Dishforth Village Hall, Back Lane, Dishforth, North Yorkshire YO7 3LH

- 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 M Pallister against the decision of Harrogate Borough Council.
- The application Ref 22/04620/FUL, dated 30 November 2022, was refused by notice dated 23 February 2023.
- The development proposed is erection of two dwellings.

Decision

1. The appeal is allowed and planning permission is granted for erection of two dwellings at Dishforth Village Hall, Back Lane, Dishforth, North Yorkshire YO7 3LH in accordance with the terms of the application, Ref 22/04620/FUL, dated 30 November 2022, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The proposal was refused by Harrogate Borough 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 Harrogate Borough Council. In my decision I do not differentiate between the two Councils, given their respective functions as LPA. I have used Harrogate Borough Council in the banner heading above as this is the name of the LPA shown on the decision notice which is the subject of the appeal.

Main Issues

3. The main issues in this appeal are the effect of the proposal on the:
 - character and appearance of the area; and
 - living conditions of the occupiers of the property known as 'The Haven', with regard to daylight/sunlight and outlook.

Reasons

Character and appearance

4. Back Lane is a predominantly residential street comprising a mix of bungalows and two storey houses. There are two detached bungalows either side of the appeal site, however there is variety within the street as a whole, which also includes a number of farm buildings. Despite the general harmony of the bungalows on the same side of the street as the appeal site, they are not uniform in design or appearance, and neither are the buildings on the other side of the street. It is the variety within the street that creates a sense of place and contributes positively to the character and appearance of the area.

There is a semi-rural character owing to the narrow street, presence of agricultural buildings and the informal arrangement of buildings, and the area has open qualities created by the low density of development and similarity in the spaces around the properties.

5. The introduction of two detached dwellings would contribute to the range of the property types of varying heights and design in the street. While different in appearance to its immediate neighbours, the proposal would not be intrusive or detract from the qualities of the locality. The use of matching materials to the surrounding development and simple built form would ensure a visual connection to the street scene and the introduction of small dormer windows and the gable feature on the main elevation would create visual interest.
6. The proposed dwellings would have single storey bungalows on either side. However, despite similarities in height, owing to the differences in design and appearance of the bungalows, there is not a distinctively linear roofline in this section of the street. Moreover, the two storey properties on the opposite side of the street are clearly visible and form part of the street scene. Therefore, given the mix of built form in the locality, even though the proposal would be taller than the neighbouring properties and from the south may appear as a two-storey property, the scale and massing of the proposal would respond positively to the prevailing character and appearance of the area and would not be incongruous.
7. The appeal scheme would be set back from the road and there would be clear spacings around the dwellings. Given the width of the appeal site it can readily accommodate two dwellings of the proposed size and the one and half storey design would not result in a visually prominent development. Even though the two storey dwellings opposite the appeal site are set further back from the road than the appeal scheme would be, given the varied layout of buildings in the area, the siting of the proposed dwellings would contribute positively to the existing pattern of development on Back Lane and would maintain the semi-rural character and open quality.
8. For the reasons given, the proposal would not cause unacceptable harm to the character and appearance of the area and would accord with Policies HP3 and NE5 of the Harrogate District Local Plan 2014-2035 (2020) (HDLP). Amongst other things, these policies require development to protect, enhance or reinforce the characteristics, qualities and features that contribute to local distinctiveness and a sense of place, ensuring that that all forms of new development are designed to a high standard. The proposal would also be in line with the provisions of the National Planning Policy Framework (the Framework) in Section 12 regarding the need to achieve well designed places.

Living conditions

9. The proposed dwelling at Plot 1 would be partially screened by the existing boundary treatment between the appeal site and the neighbouring property known as 'The Haven', and there would be a clear gap between the two properties. Moreover, the tallest part of the proposed dwelling is set furthest away from the shared boundary.
10. Owing to the height and orientation of the appeal scheme, I acknowledge that there would be some overshadowing for the occupiers of The Haven. However, this would be in a double aspect room and the effects would therefore be

limited, irrespective of whether the window facing the appeal site is a primary or secondary window and regardless of whether the room is a bedroom or a lounge. While the scheme would be visible from the side window at The Haven, which would restrict views out, this window already looks onto a tall boundary treatment at close range which dominates the outlook. The proposed development would not therefore be an unduly oppressive feature.

11. I note that the distance between the proposed dwelling at Plot 1 and the neighbouring property would fall short of the advice set out in the House Extensions and Garages Design Guide Supplementary Planning Document (2005) (SPD), which produces a guide, rather than an absolute requirement. Nevertheless, a previous scheme at the site¹ was located closer to the shared boundary and was a full two storeys in height. The Inspector in that case found the scheme would not significantly diminish the living conditions of the occupiers of The Haven. Despite the change in roof design from the previous scheme from a sloping roof to a gable end, owing to the increased set back from the shared boundary and the reduced height of the current appeal scheme I have no clear reason to take a different view from the previous inspectors' findings on this main issue.
12. Overall, given the modest effects of the proposed development it would not significantly harm the living conditions of the occupiers of the property known as 'The Haven', with regard to daylight/sunlight and outlook and would accord with Policy HP4 of the HDLP. This policy requires development proposals to be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours. It would also be in line with the provisions of Paragraph 130 of the Framework which seeks development that functions well and creates a high standard of amenity for existing and future users.

Other Matters

13. While not a reason for refusal the Council have concerns regarding the internal space of the proposed dwellings. Even if the bedrooms in the roof space are not of a sufficient size and headroom to meet the required space standards for double bedrooms, my attention has not been drawn to a policy requirement for the scheme to provide double bedrooms. Reference is also made to the issue of noise in the conclusion of the Council's statement, however given that noise was not included in the reasons for refusal and the main body of the statement makes no reference to noise this appears to have been included in error. These other matters have not, therefore, influenced my decision.

Conditions

14. The conditions requested by the Council have been considered and amended as necessary to ensure compliance with the Planning Practice Guidance and the Framework. In addition to the standard condition that limits the commencement of the planning permission it is necessary to impose a condition identifying the approved plans for clarity.
15. A condition is necessary to secure proper drainage at the site and in the interest of protecting the character and appearance of the area I have imposed a condition with regard to materials, including the stone wall boundary

¹ APP/E2734/W/17/3188732, presented by the Council and referenced in the submissions of the main parties.

treatment fronting Back Lane. I have also imposed conditions requiring the construction of appropriate visibility splays, the laying out of vehicular access and the provision of electric charging points and cycle parking, to ensure highway safety and promote low carbon transport. However, I have removed reference to surface water not discharging or transferring on the highway as this is covered by the drainage condition.

16. To protect the living conditions of neighbouring occupiers, conditions are imposed regarding hours of construction and remediation of contamination if found. While an interested party has proposed more stringent hours of construction, I have not been presented with any clear evidence to indicate that the Council's proposed condition would not protect neighbouring occupiers living conditions. Similarly, there is no substantive evidence to suggest that a construction management plan is necessary. In the interest of securing high quality communications infrastructure for the development a condition is required in relation to the provision of broadband.

Conclusion

17. For the reasons given above, I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; Plot 1 P11-05-PLG1 May 2022, Plot 2 P11-05-PLG2 May 2022 and Site as Proposed P11-05-PLG3 May 2022.
- 3) Site preparation or construction works in respect of the development hereby permitted shall take place only between 8am and 6pm on Mondays to Fridays and 8am and 1pm on Saturdays and shall not take place at any time on Sundays or Bank Holidays.
- 4) Any contamination that is found during the course of construction of the approved development that was not previously identified must be reported in writing immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and an investigation and risk assessment carried out, submitted, and approved in writing by the Local Planning Authority. Where unacceptable risks are found a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out before the development is resumed. Following completion of any remediation measure a verification report must be submitted to and approved in writing by the Local Planning authority prior to the occupation of the development hereby permitted.
- 5) The site shall be developed with separate drainage systems for foul and surface water, including measures to ensure that surface water does not discharge or transfer on the highway, which shall be maintained and managed thereafter.
- 6) No above ground construction shall take place until samples of the materials to be used in the construction of all external surfaces have been made available on site for the inspection by and written approval of the Local Planning Authority. This includes materials for the boundary treatment fronting Back Lane shown on the approved plan Site as Proposed P11-05-PLG3 May 2022, which shall be stone to match the existing wall. The development shall be constructed in accordance with the approved samples and thereafter maintained as such.
- 7) Prior to the occupation of the development hereby permitted, visibility splays shall be provided at the junctions of the access drives with Back Lane, giving clear visibility of 43 metres in both directions, measured 2 metres down the centre of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. The visibility splays must be retained and maintained clear of any obstruction thereafter.
- 8) Prior to the occupation of the development hereby permitted, vehicular access shall be fully laid out in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the crossing of the footway must be constructed in accordance with the Standard Detail number E50 and the following requirements:
 - Any gates or barriers must be erected a minimum distance of 2.5 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.

- That part of the access extending 5 metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 1:40.
- The final surfacing of any private access within 2.5 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works shall be retained as such thereafter.

- 9) Prior to the occupation of the development hereby permitted a Mode 3 electric vehicle charging point of 16 amp minimum circuitry shall be installed and made operative for each dwelling, and space laid out within the site for secure cycle parking for each dwelling. The charging point and parking shall be maintained clear of any obstruction and retained as such thereafter, until in the case of electric vehicle charging facilities, they are superseded by any advanced technology.
- 10) Prior to the occupation of the development hereby permitted, fibre to the premises (FTTP) broadband infrastructure capable of next generation access speeds shall be installed for each dwelling, unless details are submitted to and approved in writing by the Local Planning Authority that demonstrate the provision of FTTP is not viable and alternative provision is made for a 30Mbps download connection, and makes provision through the installation of ducting capable of carrying fibre cables from multiple providers for the suitable delivery of FTTP broadband at a future date.