



Appeal Decision

Site visit made on 25 July 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2023

Appeal Ref: APP/E2734/W/23/3320061

Low Lane Farm, High Street, Spofforth, North Yorkshire HG3 1BQ

- 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 Archhaven Estates Ltd against the decision of Harrogate Borough Council.
 - The application Ref 22/03003/FUL, dated 1 August 2022, was refused by notice dated 10 October 2022.
 - The development proposed is a full planning application for the residential development of 4no. dwellings following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Spofforth Conservation Area (SCA);
 - Whether the proposed development would deliver an adequate mix of housing to meet local needs;
 - Whether the proposed development would provide adequate living conditions for future occupiers with regard to privacy and overlooking; and
 - The effect of the development on the living conditions of the occupiers of 16 High Street with regard to overshadowing.

Reasons

Character and Appearance

3. The appeal site comprises a range of stone and brick-built barns and buildings set around a small farmyard on High Street within the Spofforth Conservation Area (SCA). It is proposed to demolish the barns and replace them with two 3-bedroomed and two 4-bedroomed dwellings. Two of the dwellings and a range of attached garages would be adjacent the street with two further dwellings situated behind and accessed via an existing gateway into the site.
4. The Council consider the buildings to be non-designated heritage assets (NDHAs). From my observations and from the evidence before me, the buildings are agricultural buildings typical of their age with traditional features common with their locality. Notwithstanding the physical condition of the barns,

- they retain a rural agricultural appearance and as such they contribute positively to the character and appearance of the village and the SCA.
5. A Structural Inspection Report¹ identifies that the buildings are in a poor state of repair and recommends demolition and rebuild. The appellant has further highlighted more recent collapses of the fabric of the buildings. I have, not however, been presented with any compelling evidence that it would not be possible to retain at least some of the structures or elements of them which contribute to their significance as NDHAs.
 6. Plots 1 and 2 which front on to the road would be similar in appearance to the adjoining terrace and as such would not appear out of keeping with their surroundings. A section of the existing buildings would be demolished to provide a visibility splay at the entrance to the site. Nevertheless, the form and style of Plots 1 and 2 and the attached garages would be such that they would not harm the character and appearance of the SCA.
 7. Plots 3 and 4 to the rear of the site, however, are more problematic. Although the footprints of the dwellings would be smaller, they would be significantly bulkier than the barns that they would replace. Both plots would include juliet balconies with significant amounts of glazing on their rear elevations which would not reflect the rural setting and character of the appeal site.
 8. Whilst I appreciate that some design features of the barns would be echoed in the proposed dwellings, I am not convinced that the dwellings would retain the character of the existing barns either through these features or their layout, nor have I been presented with compelling evidence that replacement buildings could not be built in style and form which better reflects their character and appearance. Consequently, I am not persuaded that the proposal would contribute to local distinctiveness or protect or enhance those features which contribute to the NDHAs special architectural or historic interest and make a positive contribution to the character and appearance of the SCA.
 9. Section 72(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 places a statutory duty to have special regard to the desirability of preserving or enhancing the character or appearance of the SCA. The Spofforth Conservation Area Appraisal 2008 (SCAA) identifies that the character of the SCA is derived from its historical interest, its connection to rural activities including farming, use of local materials in vernacular architecture and its close-knit layout.
 10. Paragraph 203 of the National Planning Policy Framework (the Framework) requires the significance of a non-designated heritage asset to be taken into account in determining an application. It also requires the decision maker, in weighing applications that directly or indirectly affect a non-designated heritage asset, to make a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.
 11. The appeal proposal would result in the demolition of the barns. The demolition of these buildings would lead to the loss of the NDHAs and as a result, the proposal, when considered as a whole would have a negative impact on the character and appearance of the SCA. Although the harm would be less than

¹ Structural Inspection Report by Krypton Structure 21 July 2022

- substantial to the SCA as a whole, the character and appearance of the CA would not be preserved or enhanced as a result.
12. Paragraph 202 of the National Planning Policy Framework (the Framework) states that where the harm is less than substantial, this harm should be weighed against the public benefits that would be provided by the proposal.
 13. The proposal would provide public benefits in the form of the provision of four homes, there would be modest economic benefit during construction and would bring a vacant site back into use. Whilst the appellant claims design to be a public benefit, as set out above I have found that the proposal would fail to preserve or enhance the SCA. Furthermore, whilst modern construction techniques may be employed, I have little evidence before me of what these would be and therefore cannot be certain that any public benefit would arise as a result.
 14. Overall, the stated public benefits are limited and therefore attract little weight. Consequently, when giving great weight to the special attention I must have to the desirability of preserving or enhancing the character or appearance of the SCA, the harm that arises from either appeal scheme would not be outweighed by the public benefits identified. Accordingly, there would be a conflict with paragraph 202 of the Framework as the harm to a designated heritage asset would not have a clear and convincing justification. This attracts great weight.
 15. Consequently, I conclude that the proposal fails to preserve or enhance the character or appearance of the SCA. The proposal would cause less than substantial harm to the significance of the SCA. Having balanced this harm against public benefits which would arise from the proposal I have found that these would not outweigh the harm that I have found. This is in conflict with policies HP2 and HP3 of the Harrogate District Local Plan and the provisions set out in the Framework in this respect. The proposal would also fail to follow principles and guidance set out in the Harrogate District Heritage Management Guidance Supplementary Planning Document (2014) and the SCAA.
 16. The access to the site is included within Policy DM1 and HLP Housing Allocation SP6. However, the majority of the site lies outside the allocated housing site. I therefore do not consider that the requirements set out in the HLP are directly relevant to the case before me. Therefore, its requirements have not been determinative.

Housing Mix

17. HDLP Policy HS1 seeks to ensure that housing developments deliver a range of house types and sizes which reflect and respond to the identified housing needs and demands of the district's households. It states that the proposed mix should make reference to the latest Housing and Economic Development Needs Assessment (HEDNA) and be informed by local assessments of housing need; detailed local market assessments and the ability of the site to accommodate a mix of housing. The 2018 HEDNA advises that future housing in the district should be focussed on delivering two and three bedroomed homes. As a guide, it suggests a mix of 30-35% two-bedroom, 45-50% three-bedroom and 20-25% four-bedroom homes would be appropriate.
18. The proposal before me consists of two three-bedroomed houses and two four-bedroomed houses. It would therefore deliver three-bedroomed homes at

the level suggested by the HEDNA, however, there would be an over-provision of four-bedroomed homes. I have not been presented with any compelling evidence which would suggest that any deviation from the mix suggested in the HEDNA would be appropriate in this instance nor have I been presented with any substantive evidence why it would not be possible to provide the suggested mix on the appeal site.

19. I recognise that the site provides an appropriate contribution of three-bedroomed homes and other housing sites nearby would provide a range of smaller units. I also accept that this is a small site and the precise mix suggested in the HEDNA cannot necessarily be applied prescriptively to each scheme. Nevertheless, Policy HS1 requires that proposals are supported by sufficient evidence. I am therefore not satisfied that the appeal proposal would deliver a range of house types and sizes that reflect and respond to the identified housing needs and demands of the district's households.
20. Consequently, I conclude that the proposal would not provide an appropriate mix of market housing, contrary to Policy HS1 of the HDLP. It would also fail to comply with the aims of the Framework in this respect.

Living Conditions – Privacy and Overlooking

21. Plot 3 would face directly towards Plot 2 across the gardens of Plots 1 and 2. The Council's Residential Extensions & Garages Supplementary Planning Document 2005 (SPD) sets out recommended separation distances between habitable room windows. Whilst the dwellings would be approximately 15 metres apart, the first-floor bedroom windows of Plot 3 would look directly over the gardens of Plots 1 and 2 at close quarters. Furthermore, the bedroom windows of Plot 2 would look directly over the garden of Plot 1. The living conditions of future occupiers of Plots 1 and 2 would be adversely affected with regard to privacy and overlooking as a consequence.
22. Although the rear elevation of Plot 1 would face towards the garden of 16 High Street (No.16) an intervening building would mean that the opportunity for overlooking from its upper floor would be restricted. Plot 4 would overlook the garages at the front of the site and therefore would not directly overlook either Plot 1 or 2 opposite. No overlooking would therefore arise as a result in this respect.
23. Nevertheless, I find that the proposal would fail to provide adequate living conditions for future occupiers of Plots 1 and 2 with regard to privacy and overlooking. Therefore, when considered overall, the proposal would conflict with the aims of HDLP policy HP4 which seeks to protect the amenity of occupiers and neighbours. It would also conflict with the advice set out in the SPD and the aims of the Framework in this respect.

Living Conditions – Overshadowing

24. The two-storey gable of Plot 3 would be close to the boundary with the garden of No. 16. At present the barn in this approximate location is single storey in height on the boundary. A shadow analysis submitted shows the shadow cast by the proposed dwellings on 21st June when the sun is at its highest. The limited evidence offered by the analysis does not provide me with any comfort that greater shadow from the proposal would not be cast at other times of the year when the sun is lower.

25. I acknowledge that the existing barn on the appeal site is closer to the boundary than the proposed dwelling, however, it is likely that shadows cast over the garden of No.16 by the proposed dwelling for a large part of the year would be greater than those shown in the shadow analysis. As a result, the enjoyment of external amenity space for the occupiers of No.16 would be unacceptably diminished.
26. Consequently, I find it has not been adequately demonstrated that the proposal would not harm the living conditions of neighbouring occupiers with regards to overlooking. The proposal would therefore be contrary to the HDLP policy HP4 which seeks to protect the amenity of neighbouring occupiers or the provisions of the Framework in that respect.

Other Matters

27. The appellant refers to positive pre-application discussions with Officers at the Council. However, I am mindful that pre-application discussions are informal and not binding on any future decision the Council may make once a proposal has been subject to the formal planning process. Therefore, these matters do not lead me away from my conclusion on the main issues in this case.

Conclusion

28. For the reasons given above, I conclude that the proposed development conflicts with the development plan when read as a whole and having taken all other matters into consideration the appeal should be dismissed.

KL Robbie

INSPECTOR