



Appeal Decision

Site visit made on 13 September 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Appeal Ref: APP/E2734/W/23/3324135

Leckhampton House, Hill Top Lane, Pannal, North Yorkshire HG3 1QG

- 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 Matt Welsh against the decision of Harrogate Borough Council.
 - The application Ref 22/03290/FUL, dated 23 August 2022, was refused by notice dated 15 December 2022.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Leckhampton House, Hill Top Lane, Pannal, North Yorkshire, HG3 1QG in accordance with the terms of the application, Ref 22/03290/FUL, dated 23 August 2022, and the plans submitted with it, subject to the conditions set out in the Schedule at the end of this Decision.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the landscape, with particular reference to the Crimble Valley Special Landscape Area (SLA); and
 - the ecology of the site.

Reasons

Character and Appearance

3. The site is accessed off Hill Top Lane, bounded by thick trees and vegetation within open countryside. It comprises a centrally sited 2 storey brick dwelling with a slate roof, within surrounding gardens. An adjacent paddock is within the same ownership. Footings have been started for additional extensions and outbuildings confirmed by prior approval or certificate of lawfulness. I see no reason to disagree with the Council's acceptance of these as a realistic fallback position ('the fallback'), on which I have therefore based my determination.
4. The proposed replacement dwelling would have an irregular footprint, being 2 storey at the front and single behind, with a courtyard arrangement to one side. The site lies outside of development limits set by the Harrogate District Local Plan 2014-2035 (LP) (2020). Its Policy HS7 for replacement dwellings in the countryside therefore applies. The parties agree that the HS7 criteria (A), (C), and (E) are met, with (B) and (D) remaining in contention.

5. Policy HS7(B) requires the new dwelling to not be materially larger than that existing. Its justification text identifies by inference that this size assessment should be against the fallback, and also indicates that massing is of relevance to the assessment of being 'materially larger.' The parties agree that the proposal would result in less floorspace. While I have seen no direct volume comparison, I find that the proposed 2 storey element as the site's most dominant part, would have a slightly smaller footprint and less bulky massing than that of the fallback. Overall, I therefore find that the proposal would comply with Policy HS7(B).
6. LP Policy HS7(D) also requires the new dwelling to be of a design sympathetic to the landscape character and the local vernacular in terms of scale, mass, materials, and architectural detail. LP Policy HP3 reinforces this need for development to incorporate high quality design, reflect local distinctiveness, and respect spatial qualities including visual relationships. The proposed dwelling's layout and form would display a relatively simple and coherent connected block structure, inferring a farmhouse with courtyard. This is also indicated by its lack of ornamentation, gabled roof, limited fenestration, and stone masonry, which would also assist to minimise its bulk. I find the proposal sufficiently references this archetypal style within the vicinity, such that it would not be out of character.
7. The proposal would consolidate the massing into one main area of built form, whereas the Council considers that the fallback would better break up this overall massing. I find both positions to be relatively balanced in terms of impact, especially in the context that there are only very limited views which would encompass the whole property. The proposal would, however, provide a less disjointed and clearly more coherent design than the fallback, and be of more typical stone compared to brick.
8. However, the proposed zinc roof and metal panelling on the archway elevation are uncharacteristic. The appellant has confirmed that materials could be amended via a condition if necessary. Based on the importance of retaining the landscape character, a more appropriate roof material should therefore be sought in this way.
9. The LP Policy NE4 sets a specific further requirement relating to landscape character, as it designates the Crimple Valley SLA within which the site lies. Amongst other things, NE4 identifies SLAs as being valued locally for their high quality landscape, their importance to the settings of the towns, and their high sensitivity to inappropriate development which would adversely impact on the quality of the area designated. Under Policy NE4(F) the proposal is therefore required to avoid the significant loss of key characteristics that contribute to the quality of the SLA and the setting of Harrogate.
10. The SLA extends along the Crimple Valley up to Harrogate's southwest urban edge, and the west and north side of Pannal. Around the appeal site it comprises small and randomly organised agricultural fields reflecting the typical nature of early enclosure, contrasting with more regular and rectilinear parliamentary enclosures to the south of the river. Bounded by hedgerows and linear tree cover, fencing, and some elements of low stone walling, this creates the broad pastoral character of the surrounding countryside. The landform and tree cover unifies the area and is key to the area's distinctiveness, interspersed with individual and small groups of buildings.

11. Although the site is located in a highly prominent area for which retention of openness is important, I concur with the Landscape Statement that the new dwelling would be screened by thick tree cover from the majority of the surrounding landscape. Where views would be possible, it would still appear as an isolated dwelling within an existing discrete site, and so would still reflect and maintain the wider landscape character. It would not affect the setting of Harrogate or its coalescence with Pannal. While the tree screening is not protected by a Tree Preservation Order, measures to protect and retain these trees could be imposed via condition, alongside other landscaping matters.
12. The Council raised concerns that the permitted development rights for the new dwelling could allow it to become even larger in the future. However, this concern could be suitably controlled via a condition.
13. Overall, the proposal would not harm the character and appearance of the landscape, with particular reference to the Crimble Valley SLA. It would comply with the LP Policies HS7, NE4, and HP3, and the Harrogate Landscape Character Assessment (2004). It would also comply with the National Planning Policy Framework ('the Framework') (2023) section 12, including the requirements of paragraph 30 to be visually attractive as a result of good architecture, layout, and appropriate and effective landscaping, and to be sympathetic to local character and history, the surrounding built environment, and the landscape setting.
14. The Council's reason for refusal includes that there would be no public benefits that would outweigh the proposal's harm. As I have found that no harm would be caused, there is no requirement to make such an assessment.

Ecology

15. The proposed development would result in the loss of a parcel of modified grassland, areas of introduced shrubs, two internal hedgerows, and 20 trees including three mature common limes and scattered fruit trees. The Ecological Impact Assessment ('the Assessment') concludes that with the proposed mitigation compensation measures, the proposed development would secure positive gains to local biodiversity.
16. Although the Council's Ecologist suggests that there should have been use of the small sites biodiversity metric, they also accept that the Assessment appears to be reasonably comprehensive. This is both in terms of survey and site assessment, and its recommended ecological mitigation. I find that the Assessment provides sufficient information relating to the ecological impact of the proposed development, that I have no reason to doubt its conclusion. A suitable management plan could be conditioned.
17. Ecological mitigation would include an orchard and compensatory tree-planting, native species-rich grassland and hedgerow, a natural reed bed filtration system, and deadwood loggeries. Most of these proposed measures would be provided outside of the red line of the development, but still within the appellant's ownership. The Council's reason for refusal cites a lack of a s106 legal agreement, because of concerns regarding the mechanism to secure this mitigation both initially and for longer term management.
18. S72(1) of the Town and Country Planning Act 1990 describes the types of conditions which may be imposed under s70(1), which includes requiring the

carrying out of works on any land under the control of the appellant. Although the Council suggests this land could be sold off separately to the dwelling, the planning permission would run with the land, and would therefore still be binding to any future owner. I therefore see no uncertainty with the provision of the necessary ecological enhancements.

19. The proposal would thus have a positive impact on the overall ecology of the site. It would comply with the LP Policy NE3 which amongst other things supports proposals that provide net gains in biodiversity, and requires proposals to increase connectivity of habitats and make use of opportunities to restore and re-create priority habitats and other natural habitats. It would also comply with guidance in the Framework paragraph 131 relating to the retention and incorporation of trees in developments, and section 15, particularly paragraph 174 which requires net gains for biodiversity and to recognise the wider benefits from natural capital and ecosystems.

Conditions

20. I have attached the statutory condition to limit the lifespan of the planning permission, and one to specify the approved plans to provide clarity for the terms of the permission. I have imposed all of the Council's suggested conditions, subject to some amendments to reflect paragraph 56 of the Framework and the Planning Practice Guidance.
21. Protection for trees, and details of hard and soft landscaping and external materials, are required in order to safeguard the character of the landscape. For the same reason, I have added a condition removing some permitted development rights for future alterations to the dwelling and restricting any outbuildings. Landscaping details are also required in order to ensure the proposal's ecological benefits.
22. Control relating to contamination is necessary to ensure that contamination risks are minimised. Control over the parking area to be provided free from obstruction is required for highway safety. Confirmation of details of the Electric Vehicle Charging Points and refuse provision will ensure that these are appropriately provided and maintained.
23. The Council also suggested informatives relating to any new topsoil needing to be certified as suitable for a domestic garden, and that should any bats or evidence of bats be found prior to or during development, work must stop immediately and the National Bat Helpline contacted in the first instance. I highlight them here for the appellant's information.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, I conclude the development accords with the development plan taken as a whole with no material considerations outweighing this, and therefore the appeal is allowed.

L Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Existing Site – Site Location Plan
 - Proposed Site – Site Location Plan
 - Proposed Site – Site Block Plan
 - Proposal Site Plan
 - Proposal Floor Plans – Ground Floor Plan
 - Proposal Floor Plans – First Floor Plan
 - Proposal Floor Plans – Roof Plan
 - Proposal Elevations – South West / South East Elevations
 - Proposal Elevations – North East / North West Elevations
 - Proposal - Sections
 - Tree Protection Plan BA11583TPP Rev A
- 3) No site clearance, preparatory work, or development shall take place until an Arboricultural Method Statement in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) for the tree precautionary zone identified on the Tree Protection Plan (BA11583TPP Rev A) has been submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved Arboricultural Method Statement, and no site clearance, preparatory work, or development shall take place until the scheme for the protection of the retained trees identified on the Tree Protection Plan has been carried out. The scheme for the protection of the retained trees shall be maintained as approved until the development is complete.
- 4) No development shall take place, until full details of both hard and soft landscape works and their implementation programme shall be submitted to and approved in writing by the Local Planning Authority. The hard landscaping details shall include surfacing materials and boundary fences or walls. The soft landscaping details shall take into account measures to enhance the ecological value of the site, and shall include specification of species, tree and plant sizes, number and planting densities, and the timing of the implementation of the scheme, including any earthworks required. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with the agreed implementation programme. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant specified in the approved details, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or shrub, or plant of the same species and size as that originally planted, shall be planted at the same place.
- 5) No above ground construction work shall take place until details of the materials to be used in the construction of the external walls and roof of the development

hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 6) If during the course of development, any contamination is found which has not been previously identified, work shall be suspended, and measures for its assessment and remediation to bring the site to a condition suitable for the intended use shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved measures, including any identified timescales or notification periods, and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to first occupation of the dwelling hereby permitted, the access, parking, manoeuvring, and turning areas shown on the approved plans shall be provided and retained thereafter free of obstruction in order to allow for the parking of resident and visitor vehicles.
- 8) Prior to the first occupation of the dwelling hereby permitted, an electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall contain details of the number and location of all electric vehicle charging points (EVCP) which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). The installation of EVCP shall be completed in accordance with the approved strategy and plan, and made operational prior to first occupation. The installed EVCPs shall be retained thereafter.
- 9) Prior to the first occupation of the dwelling hereby permitted, suitable and sufficient provision shall be made for the storage and containment of refuse prior to collection, and access for collection of refuse. No waste and associated containers used for the storage and containment of waste shall be stored off the premises.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order with or without modification), no development permitted by virtue of its Schedule 2 Part 1 Class A-F other than that expressly authorised by this permission shall be undertaken.

END OF SCHEDULE