
Appeal Decision

Site visit made on 29 September 2023

by Susan Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2023

Appeal Ref: APP/U2750/W/23/3327980

Hawthorne Cottage, Butt Lane, Carlton Husthwaite, North Yorkshire YO7 2BH

- 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 Mrs Linda Bainbridge against the decision of North Yorkshire Council.
 - The application Ref 23/00409/FUL, dated 14 February 2023, was refused by notice dated 12 June 2023.
 - The development proposed is Construction of a detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. As the proposal relates to the setting of a listed building and a conservation area (CA) I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The listed building affected is The Old Hall, Village Street (ref. 1150754). The Council forwarded the list description for a different building but to avoid doubt I have taken the list description directly from Historic England's website.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II* listed building, The Old Hall, and the extent to which it would preserve or enhance the character or appearance and setting of the Carlton Husthwaite CA;
 - The effect of the proposed development on the living conditions of the occupants of the adjacent property Hawthorne Cottage; and
 - Whether sufficient information has been submitted to demonstrate whether biodiversity net gain would be delivered.

Reasons

Character and Appearance, Heritage Assets

4. Carlton Husthwaite CA encompasses the historic core of the village where there is a high concentration of listed buildings compared to its size. It is a linear

village with a typical medieval form to the long and narrow historic plots which survive in its layout. The character of the village is expressed through its historic architecture, with large and prominent residences interspersed with short rows of modest cottages. The CA has a unified architectural character, with the majority of dwellings both large and small having classical symmetrical proportions, with large sash windows. Most are set back from the footpath with front gardens behind low brick walls and hedges, and of these, very few have frontage car parking. The principal road-facing frontages of the majority of the buildings also lack front projections.

5. The supplied map indicates a small part of the CA boundary falling within the appeal site, although the amount of the site affected is difficult to ascertain given the age of the map and subsequent changes in garden boundaries. Nevertheless, no matter what proportion of the site lies within the CA it is most certainly adjacent to it, and any development would directly affect its character and appearance and the surroundings in which it is experienced.
6. The appeal site comprises the former side garden of Hawthorne Cottage, a modern detached bungalow with rooms within the roof. The wedge-shaped site occupies a prominent position on Butt Lane within the village of Carlton Husthwaite, opposite the junction with Croft Lane. The site is verdant and undeveloped in character, enhanced by the frontage hedge. It has an attractive and open appearance in this part of the village. Butt Lane comprises simply designed twentieth century dwellings both two storey and single storey in height which sit within relatively generous plots set back from the road.
7. Opposite to the site, beyond the junction to Croft Lane, is an imposing Grade II* listed building, the Old Hall. Its significance derives from its historical status as a manor house, dating from the late 17th century. It sits within a prominent plot behind a curved brick boundary wall and is partially screened from westerly views by mature vegetation. The building sits majestically above the road level and its distinctive double gabled roof is clearly seen from numerous viewpoints, including from some distance down the main approach into the village via the A19 and Butt Lane. Here, the appeal site is seen in the same views at the entrance to the historic core of the village and the CA. When viewed from this approach, the appeal site forms an attractive transition from the more modern housing which lines Butt Lane and it plays an important part in framing the view into the CA. Additionally the appeal site is clearly visible in the same views as the Old Hall from an easterly direction, along Main Street. Consequently, it makes a positive contribution both to the character and appearance of the CA as a whole as well as its setting and that of the Old Hall.
8. It is clear that the proposed dwelling has been designed to fit within the relatively constrained plot and reduce impacts on its neighbour, but in doing so it fails to take account of the local distinctiveness of the area. Its two storey gable would front the road, and it includes a complex mix of single storey front and side projections containing a jumbled array of window and roof types. This results in a design and layout which is unsympathetic to local character. Furthermore, visual harm would result from the proposed dwelling's occupation of almost the entire width of the plot and high density appearance which would be at odds with the more spacious plots occupied by its neighbours.
9. Together with the front parking and turning space and associated removal of the hedge, the proposed dwelling would unacceptably erode the verdant and

open character and appearance of this prominently located plot. Consequently, I find that the proposal would fail to preserve the setting of the listed building, to the detriment of its special interest, and the significance and setting of the CA.

10. The previously approved alterations to Hawthorne Cottage¹ do not have bearing on my decision given that the permission has since lapsed. In any case, the proposal is for an entirely new dwelling within a garden plot rather than a redesign of the existing, so it is not directly comparable. The lack of comments from Historic England simply reflects their policies in responding to minor planning applications and does not imply an inherent lack of objection.
11. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Old Hall is a Grade II* listed building; an asset of the highest significance. Paragraph 200 advises that significance can be harmed by development within its setting and that any such harm should have a clear and convincing justification.
12. Given the separation of the appeal site from the Old Hall and its location on the edge of the CA, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant's desire to live in a smaller dwelling with less garden area is a private not public benefit, and I have not been presented with any other public benefits which would outweigh the identified harm.
13. Given the above and in the absence of any defined public benefit, I conclude that the proposal does not represent good design and would fail to preserve the setting of the Grade II* listed building and the character or appearance and setting of the Carlton Husthwaite Conservation Area. This would fail to satisfy the requirements of the Act, sections 12 and 16 and paragraph 199 of the Framework and conflicts with Hambleton Local Plan (2022) (HLP) policies E1, E5, S1 and S7, which together and amongst other things seek to ensure high standards of design which integrates successfully with its surroundings, reinforcing local distinctiveness and responding positively to context and preservation of heritage assets. As a result, the proposal would not be in accordance with the development plan.

Living Conditions

14. Hawthorne Cottage has several windows to its side elevation which directly face the appeal site. The site comprises its former side garden which has since been separated by a trellis fence. The affected windows comprise a bay window serving a living room and a smaller single window serving a kitchen, with a first floor bedroom window within the gable end above. There is also a fully glazed conservatory to the rear. All of the windows are clear glazed, aside from the side sections of the bay. The proposed two storey dwelling would be situated a short distance from these windows, with a resultant loss of daylight, morning sunlight and overbearing effects.

¹ 16/01266/FUL

15. The appellant has made efforts to reduce the effects of the proposal on the occupants of the neighbouring property, including a slightly lower ridge height, smaller redesigned front projection and greater distance from the side boundary than the previously refused proposal². The kitchen window would face the smaller front projection, and the effect on the users of this room would be acceptable given that an alternative source of light exists from the front window. However, the slightly increased distance from the boundary does little to alleviate concerns regarding impacts on the remaining windows, and the evidence does not indicate whether the lounge and bedroom have any alternative source of light.
16. The height and bulk of the proposed dwelling coupled with its proximity to the side boundary would result in an unacceptable effect on the living conditions of the occupiers of Hawthorne Cottage. This is contrary to policies E1 and E2 of the HLP which seek for new development to achieve a satisfactory relationship with and have an acceptable impact upon adjacent development, particularly in relation to availability of daylight and sunlight and overbearing effects.

Biodiversity

17. Demonstration of biodiversity net gain (BNG) via the use of the latest DEFRA metric is not currently mandatory, nonetheless HLP policy E3 expects all development to demonstrate the delivery of a net gain for biodiversity. Supporting text paragraphs 6.43 and 6.44 set out the importance of protecting and enhancing natural habitats and the incorporation of features into the design of developments which enhance biodiversity. Paragraph 6.46 refers to the use of the latest DEFRA guidance and relevant tools to demonstrate compliance with the policy in terms of BNG.
18. The application was not accompanied by a BNG metric. Correspondence from the appellant's agent to the Council indicates that a copper beech hedge would be planted along the new fence, along with a large number of silver birch trees, the creation of a small wildlife pond in the back garden, and inclusion of bird and bat boxes in the build. However the submission does not include any further details or plans to show such proposed enhancement measures, so I cannot be certain that there would be sufficient space within the appeal site which is already tightly constrained. Furthermore, there is a lack of any assessment of the baseline biodiversity value of the site or calculation of loss arising from the removal of the existing boundary hedge and landscaped garden area to create a vehicular access and parking/turning area. Single dwellings and infill plots are not specifically excluded from the requirement to demonstrate net gain.
19. The appellant has failed to demonstrate the delivery of a net gain for biodiversity, contrary to HLP policy E3 and national planning policy and guidance as set out in paragraphs 174 d) and 179 b) of the Framework.

Conclusion

20. The appeal is dismissed.

Susan Hunt

INSPECTOR

² 22/01786/FUL