



Appeal Decision

Site visit made on 18 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/U2750/W/23/3327563

The Old Hall, Main Street, Kelfield, York 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 Nick Hare against the decision of North Yorkshire Council.
 - The application Ref 2022/1388/FUL, dated 23 November 2022, was refused by notice dated 23 June 2023.
 - The development proposed is the demolition of redundant stable block and tack room and construction of two bedroom dormer annexe.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of redundant stable block and tack room and construction of two bedroom dormer annexe, at The Old Hall, Main Street, Kelfield, York, YO19 6RG, in accordance with the terms of the application, Ref 2022/1388/FUL, dated 23 November 2022, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

Applications for costs

2. An application for an award of costs was made by Mr Nick Hare against North Yorkshire Council. This is the subject of a separate Decision.

Preliminary Matters

3. Following assessment of the appellant's flood risk sequential test submitted with the appeal, the Council has withdrawn its fourth reason for refusal. I find no reason to conclude differently in this regard.
4. The appellant refers to a number of interested party letters of support, however, the Council has confirmed these were in relation to a previous application on the site.

Main Issues

5. The main issues are:
 - whether the proposed development would be ancillary to the main dwelling;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupiers of 8 Hall Court, with particular regard to outlook and overshadowing.

Reasons

Ancillary to the Main Dwelling

6. The site comprises a detached dwelling and garden, an adjacent single storey stables building, and a field behind alongside the riverbank. The proposal is to replace the stables with a 2 storey annexe building.
7. This building would provide sufficient internal facilities which could allow for independent day-to-day living, without reliance on the main dwelling. However, it is proposed as accommodation for family members or domestic staff, to be held under the same land ownership and address. There would be no physical barrier to the courtyard area or rear land, and the existing driveway would be used for both. The annexe would have a much smaller floorspace than the main dwelling. Taken together, these factors indicate that no separate planning unit would be created.
8. Furthermore, if I were to allow this appeal then by virtue of the development description, the permission would be for an annexe. A condition could also be imposed to require only this use, and the appellant has also submitted a signed UU to this effect. If the building is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission were not granted.
9. Therefore, I conclude that the proposed building would be ancillary and function as an annexe to the main dwelling. As such, it would not conflict with Policy SP4 of the Selby District Core Strategy Local Plan (CS) (2013) which restricts new residential development. I have assessed the subsequent main issues on this basis.

Character and Appearance

10. As an ancillary building, it is not necessary or appropriate for it to replicate the plot size and spacing of the surrounding dwellings. Even so, although from the rear its impression would be that of a new dwelling due to its design and size, the row of dwellings backing on to the field are already densely spaced such that it would not appear untoward.
11. In maintaining a lower height, size, and stature to the main dwelling, the building would appear subservient to it from the majority of viewpoints. The new footprint would be closely aligned to that of the existing stables. While it would introduce a larger and higher extent of built form, it would not appear cramped or incongruous in comparison with the higher gable of the neighbouring dwelling.
12. The 2 existing adjacent mature trees would also provide some screening of the general massing, even with seasonal leaf drop. In acknowledging that the neighbouring tree could be removed in future, I have not relied upon its presence for my determination. However, control over the retention of the tree within the appellant's ownership could be imposed via a condition.
13. Notwithstanding that the proposal could not be viewed from Main Street, the street scene through the village comprises a blend of traditional 2 storey historic red brick dwellings, and more modern red brick dwellings and bungalows. Although examples of extensions and dwellings which do not well

reflect the proportions and character of their hosts or the historic streetscene should not encourage further departures, the proposal would not be out of place within this general context and mix of styles. In particular, many of its proposed design and architectural elements would replicate or infer those on the main dwelling, including the rear pop-out gable. The reclaimed facing brickwork would match the existing stables and main dwelling, with feature brickwork to also replace that which is being demolished.

14. In conclusion, the proposed development would not have a harmful effect on the character and appearance of the area. It would therefore comply with the CS Policies SP18 and SP19, and the Selby District Local Plan Part 1 - General Policies (LP) (2005) Policy ENV1. Together and amongst other matters, these seek for development to achieve high quality design which takes account of the character of the area, and for layout, design, and materials, to respect the site and its surroundings. It would also comply with the National Planning Policy Framework ('the Framework') (2023) section 12 in achieving well designed places, and paragraph 130 which seeks for developments to be visually attractive and sympathetic to local character and history, including to the surrounding built environment and landscape setting.

Living Conditions

15. The proposed building would increase the overshadowing to No. 8 Hall Court, particularly in summer early evenings. However, this would only fall over a relatively small part of that property for some of the time. The letter from an RFS professional identifies that the trees already cause some overshadowing, which would increase as they grow. The proposal would not have a significant effect on the conservatory of No. 8 as an area where direct sunlight is expected. I therefore find there would be no undue harm in this regard.
16. In relation to outlook from No. 8, at ground floor level the proposal would essentially retain the existing relationship. The increased height at first floor close along the boundary would block views in that direction, but partial views over it would remain from the first floor. Some views in this direction are also already partially limited by the tree cover in full leaf, and this vegetation would also soften the massing at close range. A wide angle of view would also remain from the rear of No. 8 in general. While there would thus be some loss of outlook, I do not find this would be sufficiently oppressive overall so as to cause undue harm.
17. In conclusion, the proposed development would not have a harmful effect on the living conditions of the occupiers of 8 Hall Court, with particular regard to outlook and overshadowing. It would therefore comply with the LP Policy ENV1, which amongst other matters, requires development to take account of the effect upon the amenity of adjoining occupiers. It would also comply with the Framework paragraph 130, for developments to have a high standard of amenity for existing and future users, and paragraph 131 relating to tree protection.

Other Matters

18. The Council's officer report identifies that the proposal could affect the neighbouring tree, albeit with no further explanation and with tree loss not being a reason for refusal. The building footprint adjacent to the tree would remain as at present, and root protection measures could be required via

condition. The tree has a very slight crown encroachment over the existing roof, and thus may be affected during construction. There could also be potential future pressure for pruning as it grows to full height, including due to leaf drop and risk of building damage. However, I find such matters may occur even with the current stables. The 2 trees have no formal protection, and so it would be a benefit of the scheme to impose a condition to protect the appellant's tree. On balance, I find an acceptable impact on the trees overall.

Conditions

19. 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 the Council's suggested conditions, subject to slight amendment to reflect paragraph 56 of the Framework and the Planning Practice Guidance.
20. Matching materials to the existing dwelling are required in order to ensure a harmonious character of the site. A condition for if contamination is identified will allow for appropriate remediation. Specifying the height of the floor levels will reduce the development's risk of flooding. I have not required compliance with the Flood Risk Assessment as suggested, as this does not provide a detailed scheme of works, plus there would be no additional surface water for disposal compared to that at present.
21. I have imposed conditions relating to the protection of the adjacent trees in order to preserve character and appearance, and to not have physical effect the neighbouring property. I have also specified for the annexe to not be occupied or used at any time other than for a purpose ancillary to the residential use of the host dwelling, as this is central to the acceptability of the scheme.
22. The Council highlights that the due to the proximity of the proposed works to the flood defence, an Environment Permit for a Flood Risk Activity will be required from the Environment Agency in addition to planning permission.

Conclusion

23. The proposed development complies with the development plan as a whole. For the reasons given above I therefore conclude that the appeal is allowed.

L N 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:
Site Location Plan 5.2021.KPA12
Proposed Plan & Elevations; Proposed Block Plan & Site Location Plan 5.2021.KPA11 Rev A
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the Elder tree within the site boundary and the Rowan tree in the garden of No. 8 Hall Court (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of these trees shall be carried out as approved.
- 4) The Elder tree within the site boundary adjacent to the building hereby approved shall not be cut down, uprooted, destroyed, pruned, cut, or damaged in any manner within 10 years from the commencement of development, without the prior written approval of the Local Planning Authority.
- 5) If the Elder tree within the site boundary adjacent to the building hereby approved tree is cut down, uprooted, or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.
- 6) The materials to be used in the construction of development hereby approved shall be reclaimed facing brickwork to match that of the host dwelling, and a roof of reclaimed clay pantiles and artstone ridge tiles.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) Prior to occupation of the development hereby approved, the finished floor levels shall be no lower than 7.675 metres Above Ordnance Datum, and retained as such for the lifetime of the development.
- 9) The annexe is not to be occupied or used at any time other than for a purpose ancillary to the residential use of the host dwelling.

END OF SCHEDULE