



Appeal Decision

Site visit made on 24 October 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/E2734/W/23/3325978

Land to South of Limebar Lane, Marton cum Grafton, Harrogate YO51 9QJ

- 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 Harmby Homes Ltd against the decision of Harrogate Borough Council.
 - The application Ref 22/03479/FUL, dated 6 September 2022, was refused by notice dated 16 January 2023.
 - The development proposed is erection of 1 dwelling, garage, stable and various landscaping works including driveway, installation of solar panels, ground source heat pump and log burner.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 1 dwelling, garage, stable and various landscaping works including driveway, installation of solar panels, ground source heat pump and log burner at Land to South of Limebar Lane, Marton cum Grafton, Harrogate YO51 9QJ in accordance with the terms of the application, Ref 22/03479/FUL, dated 6 September 2022, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Harmby Homes Ltd against Harrogate Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal was refused by Harrogate Borough Council, which at the time was the Local Planning Authority (LPA) for the area. On the 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

4. The main issues are:
 - whether the proposal would provide a suitable location for housing; and
 - the effect of the proposal on the character and appearance of the area, bearing in mind that it would be within the Marton cum Grafton Conservation Area (MCGCA) and there is a nearby non- designated heritage asset (NDHA).

Reasons

Location

5. Policies GS2 and GS3 of the Harrogate District Local Plan (2020) (HDLP) set out the Council's growth strategy to 2035, directing development to settlements within the defined settlement limits. It is not disputed that the proposal would be outside of the development limits of the village of Marton cum Grafton, in conflict with Policies GS2 and GS3 of the HDLP.
6. However, since the appeal was lodged, a Certificate of Lawfulness of Existing Use or Development¹ has been issued. This establishes that a material start had been made on site in accordance with a previous permission² for the erection of one detached dwelling, car port, formation of parking area and creation of domestic curtilage, and this is a fallback position.
7. I observed at my site visit that ground works are underway, evidence that the fallback position is a greater than theoretical possibility that if the appeal is dismissed the fallback would be pursued. The dwelling granted permission is in a similar position to the appeal scheme and both would be outside of the settlement limits. In locational terms therefore, the effect would be comparable for both the fallback position and the appeal scheme. Moreover, there is no physical possibility that both the appeal proposal and the fallback could be carried out.
8. There are concerns from third parties that allowing the appeal scheme would set an undesirable precedent which would make it difficult for the Council to resist similar development elsewhere on the edge of the village. However, I do not find that there is a reasonable prospect of similar development being repeated on other fields outside of the development limits, as it would seem unlikely that other sites surrounding the village have an extant planning permission that establishes the principle of development in the same way as the appeal site does.
9. Consequently, I find the suggested fallback position to have significant weight as a material consideration in the determination of the appeal, that in this case, justifies a departure from the development plan with regard to the principle of development at the site. I therefore find that the proposal would provide a suitable location for housing.

Character and appearance

10. The appeal site comprises a field off Limebar Lane adjacent to a property known as Limebar Cottage, which has a tall timber fence at its shared boundary. The site lies at the edge of the village of Marton cum Grafton, consisting of the two distinct settlements of Marton and Grafton. The site is bounded by established hedging and trees at the boundary with Limebar Lane and along the field boundaries. There is open countryside beyond, with an eminently rural character.
11. The site falls within the MCGCA and as such I have paid special attention to the desirability of preserving or enhancing the character or appearance of the

¹ Ref: ZC23/02934/CLEUD

² Ref: 19/03390/FUL

MCGCA³. From my observations and the MCGCA Character Appraisal (2011) (the Appraisal), the significance of the conservation area, insofar as is relevant to this case, is primarily derived from its surviving historic fabric which describes the development of Grafton as a thriving self-contained community, and the associated architectural detailing and layout of the buildings within it. Located at an important approach to the village from Limebar Lane the appeal site contributes positively to the MCGCA.

12. The Appraisal sets out that the key characteristics of the local architectural style in the village are a product of local building traditions and the use of locally available materials rather than the influence of formal architectural styles. The properties nearest to the appeal site have a varied character and appearance, however I observed that generally, the buildings in the village are of a similar vernacular, being two storeys with a gable roof design and of a simple domestic appearance. The generally traditional, domestic appearance and scale of the proposed dwelling would ensure a visual connection and complementary architectural narrative with the local vernacular, reinforcing local distinctiveness and maintaining a sense of place. Moreover, it would be comparable in character and appearance to the nearby large detached dwelling at this entrance to the village, on the other side of Limebar Lane.
13. While the proposal comprises a number of ancillary structures in addition to the proposed dwelling, there would be clear spacings between them. As such the appeal site would not be dominated by buildings. Furthermore, the scale and simple design of the ancillary buildings would ensure they were subservient to the main dwelling and not overtly prominent. The proposed stables are located on higher ground. Nevertheless, their appearance would not be out of keeping or incongruous in views from the network of public rights of way (PROW), given that stables might reasonably be expected to be found given the rural context of the locality.
14. The use of renewable energy is to be encouraged and while I acknowledge that this needs to be balanced with other considerations, including the effect on heritage assets, I have not been presented any clear evidence to demonstrate why solar panels would not be appropriate in this location. Given the conventional design, appearance, and characteristic location on the roof of the proposed dwelling and garage, the solar panels would not detract from the character and appearance of the area.
15. The Appraisal explains that Limebar Lane enters the village at a position where the road is largely enclosed, owing to a bend in the road, hedgerows and trees, which I observed to reduce views of the appeal site and the village edge from this approach. Moreover, the appeal site itself is generally enclosed and the appeal scheme would not be readily visible when viewed from Limebar Lane owing to the boundary treatment. The topography of the site and location of the proposed dwelling furthest away from the nearest sections of the PROW network would ensure that that the proposal would not be overly prominent from the PROWs, moreover the established field boundary would screen the development in views from the west. In any event, I have found the proposal would relate positively to the prevailing character and appearance of the area.
16. The proposal would not therefore detract from the key views of the undulating countryside that surrounds the village identified in the Appraisal. Nor would the

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

proposal impinge on the identified key view from Limebar Lane, given that the pond is to be retained and the land in this location would remain open, thereby maintaining the existing vista.

17. Nearby to the appeal site is the former Wesleyan Chapel known as Chapel Garth, identified in the Appraisal as a landmark building of local interest and merit at the entrance to the village from Grafton Lane, that is a NDHA⁴. The building's significance is mainly derived from its age and architectural detailing, including quoins and window surrounds. In line with Paragraph 203 of the National Planning Policy Framework (the Framework), in determining the appeal I have undertaken a balanced judgement having regard to the scale of any harm or loss and the significance of Chapel Garth.
18. Given my findings above that the appeal scheme would relate positively to the prevailing character and appearance of the area, including the MCGCA, it follows that the proposal would not harm and would therefore preserve the architectural detailing and significance of the Chapel as a building of local interest and merit.
19. Overall, the proposal would preserve the character and appearance of the MCGCA and its significance as a whole and would preserve the significance of the nearby NDHA, in accordance with Policies NE4, HP2 and HP3 of the HDLP. Amongst other things, these policies require that proposals protect and/or enhance the character, appearance and local distinctiveness of the landscape and that proposals affecting a heritage asset (designated or non-designated) protect or enhance those features which contribute to its special interest and be of a high-quality design that protects, enhances or reinforces those characteristics, qualities and features that contribute to local distinctiveness.
20. It would also meet the requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions within the Framework which seek to conserve and enhance the historic environment.
21. While there is a greater than theoretical possibility that if the appeal is dismissed a previous permission at the site would be pursued, as I have concluded that the proposed development complies with the policies in the HDLP I have not found it necessary to consider the fallback position further in relation to this main issue.

Other Matters

22. It has been suggested that the proposed garage would be detrimental to views from Primrose Cottage, however owing to the presence of Limebar Cottage between the proposed garage and Primrose Cottage, and the design of the garage as one storey with accommodation in the roof, the proposed garage would not have an unduly harmful effect on views out from Primrose Cottage. While there are concerns regarding highway safety, appropriate visibility splays and access details can be secured through a planning condition.
23. There is no clear evidence to demonstrate that a scheme of this scale would lead to unacceptable pressures on local services, including drainage, and in any event details of surface water drainage measures can be secured through the imposition of a planning condition. Similarly, there is no detailed evidence that

⁴ National Planning Policy Framework, Paragraph 203; and National Planning Practice Guidance, Paragraph: 039 Reference ID: 18a-039-20190723.

access during the construction stage should be restricted to Limebar Lane or that the scheme would result in detrimental levels of light spill. As such, these matters have not been determinative in my consideration of the appeal.

Conditions

24. The conditions suggested 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.
25. I note concerns regarding the loss of trees at the site which has taken place already, as such a condition requiring the submission of a landscaping scheme is necessary, including details about tree planting to mitigate for tree loss, in the interest of protecting the character and appearance of the area. The landscaping condition also includes measures to secure the long-term maintenance of newly planted trees/hedges/shrubs within 5 years of planting so a separate condition is not necessary. Given the scale of the proposal and in the absence of any detailed justification, replacement planting after 10 years, as suggested by the Council, is not reasonable.
26. In the interest of protecting the character and appearance of the area, it is necessary to impose a condition in relation to materials, notwithstanding the submitted photos of the proposed materials and those listed on the plans. I note the suggestion that reclaimed stock should be used rather than new materials, however I have not been presented with any clear evidence to demonstrate why this is necessary.
27. A condition relating to measures to prevent the deposit of mud, grit and dirt onto the public highway is necessary in the interest of highway safety. I have also imposed conditions regarding access to the site, the construction of appropriate visibility splays and the provision of electric charging points and cycle storage, to ensure highway safety and promote low carbon transport. In the interest of securing high quality communications infrastructure for the development a condition is necessary in relation to the provision of broadband. To protect living conditions, a condition is necessary in relation to remediation and contamination and to secure proper drainage at the site, including measures to prevent surface water discharging or transferring on the highway.
28. While I note the Council's and third-party concerns regarding protected species at the site, it has been agreed by the Council that a District Level Licence (DLL) issued by Natural England (NE) can be accepted as an alternative to complying with the recommendations of a great crested newt survey. It is not in dispute that a DLL has been issued and the appellant has included in their submissions an email from NE indicating that the licence remains fully valid and that no breach has occurred or is being investigated, as suggested in the Council's Statement. As such, it is not necessary to impose a condition relating to protected species.
29. Given the distance between the appeal proposal and the nearest neighbouring occupiers, there is no substantive evidence to demonstrate that their living conditions would be substantially harmed with regard to noise arising from the proposed ground source heat pump. Therefore, it is not necessary to impose a condition requiring noise surveys to be undertaken.

Conclusion

30. For the above reasons, in relation to the location of the proposed development, the material considerations indicate that this decision should be made otherwise than in accordance with the development plan. I have found the proposed development to comply with the development plan read as a whole with regard to its effect on the character and appearance of the area. I therefore conclude that 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: ML05669 - 01A Garage and Office, ML05669 - 02A Ground Floor Plan, ML05669 - 03A First Floor Plan, ML05669 - 04 Second Floor Plan, ML05669 - 05A Roof Plan, ML05669 - 06A Front and Rear Elevations, ML05669 - 07A Side Elevations, ML05669 - 08B Site Plan, ML05669 - 09B Entrance and Hardstanding, ML05669 - 10 Stable and Store and ML05669 - 11 Garden Room.
- 3) No above ground construction shall commence until details of both hard and soft landscaping works, which shall include tree planting, have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - hard surfacing materials;
 - planting plans, specifications and schedules (including planting size, species and numbers/densities); and
 - earthworks showing existing and proposed finished levels or contours.

The hard landscaping works shall be carried out in accordance with the approved scheme and shall be completed prior to the first occupation of the development. The soft landscaping works shall be carried out in accordance with the approved scheme and in the first available planting season following the first occupation of the development. Any trees/hedge/shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees/hedges/shrubs of similar size and species to those originally required to be planted.

- 4) No above ground construction shall commence 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. The development shall be constructed in accordance with the approved samples and thereafter maintained as such.
- 5) No above ground construction shall take place until details of the access to the site have been approved in writing by the Local Planning Authority, including details of:
 - how the crossing of the highway verge and/or footway is to be constructed;
 - the erection of any gates or barriers, which shall be erected a minimum distance of 3 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway; and
 - the final surfacing of the access within 5 metres of the public highway, which shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

The agreed works shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted, retained and maintained as such thereafter.

- 6) Construction works shall be carried out in accordance with measures to prevent the deposit of mud or other debris on the public highway by vehicles travelling to and from the site, in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. These measures shall be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
- 7) 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.
- 8) Prior to the occupation of the development hereby permitted, visibility splays shall be provided at the junction of the access with Limebar Lane, giving clear visibility of 43 metres in both directions, measured 2.4 metres along both channel lines of the Limebar Lane. The visibility splays must be retained and maintained clear of any obstruction thereafter.
- 9) Prior to the occupation of the development hereby permitted a Mode 3 type electric vehicle charging point on a dedicated circuit with a minimum current rating of 16 Amps shall be installed and made operative, and space laid out within the site for secure cycle storage. 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, 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.
- 11) 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.

*****End of Conditions*****