



Appeal Decision

Site visit made on 17 October 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal Ref: APP/U2750/W/23/3326504

Land to the west of The Howe, Felixkirk, North Yorkshire YO7 2DP

- 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 Richard Fawcett of Yorkshire Outdoors against the decision of North Yorkshire Council.
- The application Ref: 23/00185/FUL, dated 26 January 2023, was refused by notice dated 11 July 2023.
- The development is described as proposed single dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In its decision notice, the Council refers to harm to the setting of listed buildings within the village. While neither party's appeal statements identify all of the relevant listed buildings, the Council has provided a number of list entries and I have determined the appeal accordingly.
3. On the basis that the proposal would affect the setting of heritage assets, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

4. The main issue is the effect of the proposal 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 Felixkirk Conservation Area (the CA) and of a number of listed buildings comprising: the Grade II* "Church of St Felix" (Ref: 1241255) and the Grade II "Felixkirk School" (Ref: 1241256), "High Anson House" (Ref: 1241294) and "Richmond House" (Ref: 1260587); as well as the setting of a Scheduled Monument "A bowl barrow at Howe Hill 130m south-south-west of St Felix's Church" (Ref: 1008736) (the SM).

Reasons

Character and appearance

5. The appeal site comprises part of a large sloping grassland field with relict ridge and furrow. The field is next to the road on the western outskirts of Felixkirk beyond The Howe, which is a modern dwelling set in a large plot with densely vegetated boundaries. There is a Yorkshire Water facility, comprising a covered reservoir and small outbuilding enclosed by metal mesh fencing, at the lower-lying western end of the field. Access to the appeal site is via the highway access track that serves the water facility, the Yorkshire Outdoors

Activity Centre (the YOAC) and a single storey dwelling close to the road. It also functions as a public right of way (the footpath) for a short distance from the road. The western boundary of the appeal site is fenced but the wider field boundaries include hedgerows and trees. At the time of my visit, the grassland was tussocky and cattle-grazed and the field is visually and functionally part of the open countryside that surrounds the rural settlement.

6. The proposed dwelling would be cut into the slope of the field adjacent to The Howe. It would be a substantial detached 2 storey building with an attached garage with roof terrace above. Access would be via a long driveway roughly parallel to the southern field boundary that abuts the highway. The proposal would result in a significant quantum of built development in the open countryside and it would bridge the previously undeveloped gap between the scattered development around the highway access and the village.
7. During the summer, the vegetated highway boundary would partially screen the proposal from the road. However, the elevated dwelling and its driveway would be conspicuous at night due to light spill, and during the day when trees are not in leaf. Moreover, the building would be a permanent structure whereas vegetation is temporary such as could be lost at any time including through natural causes or removal by future occupants. Even if this was not the case, the extensive landscape screening and remote highway access to the dwelling would not be visually or functionally well-related to the village. Conversely, its siting close to the village envelope and its domestic appearance would set it apart from the sporadic and isolated rural development characteristic of the wider countryside. As a result, the proposal would not make a positive contribution to the character and appearance of either context.
8. I observed that Piper Hill, on the opposite side of the road, is served by a long driveway. However, that dwelling is widely separated from nearby development and it is poorly-related to Felixkirk and to the appeal site. The Howe is well screened, but its short driveway is contained within the residential plot and it better relates to the village. The proposal would not be directly comparable and it would not be assimilated into its surroundings by either property.
9. Therefore, I conclude that the proposal would harm the character and appearance of the countryside surrounding the village. It would conflict with Hambleton Local Plan Adopted February 2022 (the LP) policy HG5 insofar as it aims to protect the character of villages and the surrounding countryside that contributes to the character or setting of that part of the village.

Setting of heritage assets

10. The CA encompasses the medieval village and it includes the land and buildings from St Felix's Church in the north to the Vicarage and Glebe House in the south. The core of the village to the south of the church comprises terraced cottages and detached dwellings, finished in brick with pantile or slate roofs. The southern part of the CA, which includes the SM, is less densely developed with widely spaced detached buildings, including the public house and Vicarage. The appeal site abuts a small section of the western CA boundary immediately to the south of The Howe.
11. Felixkirk is in an elevated location in undulating countryside where local topography, patches of woodland and dense roadside hedgerows with trees function to enclose the settlement and to limit views in and out of the CA. The

significance of the CA, insofar as relevant to this appeal, is associated with the open countryside that frames this rural settlement and its agrarian origins.

12. The National Planning Policy Framework 2023 (the Framework) defines the setting of a heritage asset as the surroundings in which it is experienced, the extent of which may change as the asset and its surroundings evolve, and which may include elements that make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
13. By virtue of its proximity to the boundary, the proposal would be in the setting of the CA. However, the closest part of the CA at this point comprises the road and the adjacent roadside bank to the front of The Howe. Case law has established that proposals must be judged according to their effect on the CA as a whole and must therefore have at least a moderate degree of prominence. Taking into account its limited relationship with the CA, and its set back behind The Howe, the proposal would not be unduly prominent in the context of the CA. Given the above, while I have found that it would harm the character and appearance of the open countryside context of the village at this point, I find that it would not be detrimental to the CA as a whole and that it would consequently preserve its overall significance.
14. The bowl barrow SM lies at the top of a prominent knoll at the southern end of the village. It is a well preserved and clearly legible example of a late neolithic to late Bronze Age funerary monument with intact burials. Its setting, insofar as it relates to this appeal, is associated with its prominent siting within the landscape which contributes to the understanding of the belief systems and social structure of early prehistoric communities.
15. The proposal would be roughly 60m from the SM but set back behind The Howe which, together with other village buildings and the road, are in the immediate setting of the SM. Notwithstanding that the proposal would be in its wider setting, it would not detract from views of the SM nor sever it from open countryside. As such, while the proposal would be the urbanisation of the wider landscape, it would not harm the setting and it would preserve the significance of the SM.
16. Now in community use, Felixkirk School is a modestly-scaled yet architecturally distinctive 19th century building in small open grounds prominently sited immediately adjacent to the street in the centre of the village. It is located some distance to the northeast of the appeal site. Its special interest, as supported by its setting and insofar as relevant to this appeal, is associated with its modest curtilage, open boundaries and central village location. While it may have served the surrounding rural area, by virtue of its wide separation and screening by intervening development the proposal would not impact upon the setting of Felixkirk School thereby preserving its special interest.
17. Richmond House is an early 19th century dwelling set well back from the street to the side of Felixkirk School. It is pre-dated by High Anson House, which is discretely set back behind the former school and to the side of Richmond House. Both are situated slightly further away from the appeal site in comparison to the school. They are well-preserved early dwellings, with locally distinctive character and appearance including architectural details and materials, and they form part of a group of historic buildings around an area of village green. The appeal site is widely separated and screened from these

buildings by intervening development including roads and other buildings including the public house. The proposal would not have any material impact on the setting of either dwelling thus preserving their special interest.

18. The Church of St Felix dates from the 12th century with later additions. Its special interest, insofar as it relates to this appeal, is associated with its position in the settlement. The loose settlement pattern and open rural context of the church, which comprise its setting, contribute to its historic legibility and special interest as a country church around which the settlement has nucleated.
19. The appeal site is quite widely separated from the church but nevertheless there is intervisibility between its elevated location and the church. The church is less prominent from the lower-lying highway access and the footpath due to the intervening land and partial screening by vegetation. Even so, and irrespective of the covered reservoir compound close to the footpath, the embattled church tower is visible and it is viewed in the context of the undeveloped farmed land and woodland that frames the village. While public views might be fleeting, the open agricultural land at this edge of the village reinforces the prominence and function of the church in the rural landscape.
20. By virtue of its scale, elevated location and siting, the dwelling would be a dominant feature in the foreground of the church when viewed from the direction of the footpath. The dwelling and its long rising driveway would detract from the open and historic views towards the church. The dwelling and its landscape planting would also be likely to be visible from the church, including its tower. The quantum of modern development, associated residential activity and artificial lighting would intrude upon it and would diminish the historical prominence and significance of the church. Therefore, I find that the proposal would fail to preserve its special interest thereby causing harm to this heritage asset.
21. Taking into account the scale and nature of the proposal, I find this harm to be less than substantial but nevertheless of considerable importance and weight. In such circumstances, paragraph 202 of the Framework advises that the harm should be weighed against the public benefits of the proposal. In this regard, I note that the appellant has a controlling interest in the nearby YOAC. However, there is little robust evidence of an essential need for a rural worker's dwelling and the proposal would in any case be a market dwelling with no apparent mechanism to link it to the YOAC. As such, the proposal would be primarily a private benefit with no substantiated public benefits that would outweigh the harm to the heritage asset, taking into account that the Framework advises that great weight should be given to the asset's conservation and that the more important the asset, the greater that weight should be.
22. In the absence of any defined public benefit, I conclude that the proposal would fail to preserve the setting of the Grade II* listed church. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and conflict with the heritage asset protection aims of LP policy E5. Consequently, it would not be in accordance with the development plan.

Other Considerations

23. The dwelling would have a relatively traditional appearance and it would be finished in locally appropriate materials. However, it would not be an

outstanding or innovative design that promotes high levels of sustainability or helps raise the standard of design in the area, such as the Framework advises should be given significant weight. The in-principle acceptability of the design of the dwelling does not weigh in favour of the proposal.

24. There are no suitable previously developed sites in the village and a single dwelling would be commensurate with the function and size of the settlement. However, accordance with LP Policy HG5 in these regards is a neutral factor that does not weigh in favour of the proposal. The accessibility of local services and facilities and the absence of harm to, among other things, the highway network and the living conditions of neighbouring residential occupiers, are similarly policy requirements that weigh neither for nor against the proposal.
25. The Framework supports the sustainable growth and expansion of rural businesses, including through well-designed new buildings. In this regard, the YOAC is a well-established business that supports the local economy by providing local employment and indirectly through visitor support for other local businesses including the public house. However, the proposal would be a private residential dwelling and it would not be the expansion of the business.
26. I understand that the dwelling would be the appellant's sole residence and he is involved in the management of the nearby YOAC. Nevertheless, the proposal would be an open market dwelling with apparently no guarantee that it would be occupied by a local person or in connection with the rural business either now or in the future.
27. I note the suggestion that the dwelling is necessary to meet the essential needs of the business in terms of natural surveillance for security purposes and to enable a rapid response. However, while the premises have been the target of theft and vandalism in the past, there is little substantive evidence that this has compromised the viability of the business. Moreover, even if the widely separated and well screened dwelling would allow natural surveillance of the YOAC, there is little compelling evidence that alternative solutions to protect the business premises have been explored and reasonably discounted.
28. On the basis that the dwelling would not be isolated, it would not be an essential rural worker's dwelling in the countryside and it would not be of exceptional design quality, the proposal would not be supported by policies in the Framework relating to isolated homes in the countryside.

Conclusion

29. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that harm.
30. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR