



Appeal Decision

Site visit made on 5 December 2023

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/H2733/W/22/3312825

Land at The Old Mill, Mill Lane, Cloughton, Scarborough YO13 0AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr S Kay and Miss H Rowe against Scarborough Borough Council.
 - The application, Ref 22/01517/FL, is dated 26 July 2022.
 - The development proposed is the erection of 1 No dwelling (revised scheme to 21/01229/FL).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The application which is the subject of this appeal was made to Scarborough Borough Council as set out in the heading above. That local planning authority has subsequently been merged with others to form the Unitary Authority of North Yorkshire Council. Statutory provisions¹ mean that the Scarborough Borough Local Plan, 2017 (LP) still has effect.
3. The Council did not make a decision on the application and the appeal was made on that basis. Nevertheless, the Council issued a 'decision notice' setting out the reasons why they would have refused the application had they done so within the decision period. These have informed the Main Issues below.
4. An interested party has questioned whether the Site Ownership Certificate on the Appeal Form records the correct owners of the site. The appellants have also identified an inconsistency. Despite requesting the appellants' views on the matter, no response has been received. Nevertheless, given my conclusions, no parties' interests will have been prejudiced in this instance in determining the appeal should the certificate prove to be inaccurate in part.
5. Since the appeal was made and representations received, an updated version of the National Planning Policy Framework (the Framework) has been published. The main parties were given the opportunity to comment on any implications of the revised version and I have taken those responses received into account. Apart from the paragraph numbers changing in some cases,

¹ Development plans for merged Local planning authorities remain in place for the new Unitary Authority area they relate to until such time as they are revoked or replaced. Regulation 26 of The Local Government (Boundary Changes) Regulations 2018, allows for any extant development plans to have effect as if adopted by the new Unitary Authority.

those policies relied on by the main parties remain more or less unchanged. I have determined the appeal with regard to the latest version and no parties' interests will have been prejudiced by my doing so. For the avoidance of doubt, I have referred to the paragraph numbers in the latest version in this decision letter.

Main Issues

6. The main issues raised by this appeal are: whether the quality of the proposed design would be sufficiently high as to outweigh the presumption against development in this location, and the effect the development would have on the character and appearance of the area.

Reasons

7. The site is a large plot with many mature trees which lies alongside Mill Lane. It encompasses former gardens of the Old Mill estate with some features still extant, albeit dilapidated and overgrown. A detached garage sits at one end of the site and this would be demolished and replaced with a more extensive part single and part two storey house extending into the site.

Policy context

8. It is not a matter of dispute between the main parties that the site lies beyond the development limits of Burniston and Cloughton, and as such lies in the countryside as specified in LP Policy SH1. This is a location where the LP does not normally permit new housing with LP Policy HC2 favouring allocated sites and those within development limits. LP Policy ENV6 limits new development in the countryside to that for which a countryside location is essential, setting out a list of circumstances of what that might include, none of which would apply to this proposal. The bus connectivity between Burniston and Cloughton and access to local services in those settlements from the site is not, consequently, a determining factor in the suitability of the location.
9. The Framework requires that the development of isolated homes in the countryside is avoided, except in particular circumstances. One of these exceptions is where the design of the dwelling would be of exceptional quality². The appellants consider that the design of the dwelling would achieve this requirement. However, the Council dispute whether the dwelling's location would be an isolated one in the Framework's terms.
10. The proposed dwelling would be situated relatively closely to the existing five or so detached houses that make up the Old Mill complex. However, this small group of houses could not reasonably be considered as a village or settlement in its own right and the proposed house would be some way from facilities in the two adjacent settlements. This physical separation from a settlement would mean it would be isolated in that sense albeit the Council consider that the dwelling would form part of what they term a 'sporadic group of houses in the countryside' and in that sense might not be remote or far from other places, buildings or people.

² Paragraph 84 e), which goes on to say that it: *is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

11. However, bearing in mind the LP definition of the countryside location of the proposal, and Framework paragraph 83³ which references villages and settlements as opposed to countryside locations, the proposed house would be one that is in the countryside and isolated from the two settlements in the wider vicinity. Consequently, in this case it would be situated in the countryside for the purposes of Framework paragraph 84⁴. In any event, even if it were not isolated in its terms, Framework paragraph 139⁵ requires significant weight to be given outstanding or innovative designs which promote high levels of sustainability and the issue of the quality of the proposed design would remain a material consideration in either case. I have therefore considered the proposal on this basis.

Location and design

12. The proposed dwelling would have a number of distinct elements in its built form. Whilst there would be some similarity in walling and window materials, overall there would be limited cohesion or coherence of elevational appearance when considered as a whole. The 'log pile' mono-pitch roof and walls to the store would bear little visual association with the substantive part of the building. Its oversailing roof would create an awkward juxtaposition with the flat roof of the garage and bedroom block, and in turn with the wide low pitch with a perpendicular ridge over the two-storey part of the dwelling. This again would have an awkward visual relationship with the extensive flat roof wing at the other extent of the house where a generous projecting roof would create a strong horizontal emphasis at that end of the building.
13. There are some discrepancies between the description of materials in the appellants' Planning Supporting Statement (PSS) and that shown on the drawings. Some of the materials may have the potential to create an attractive appearance alone or in limited combination. However, the inclusion of stonework, extensive Corten steel cladding, metal standing seam roof and the log pile effect would result in limited visual coherence across the whole structure to the visual detriment of the composition.
14. The proposed design has some potentially interesting discrete elements considered in isolation. However, these would not have the effect of elevating the quality of design of the overall composition. There is no explanation or exploration as to the significance or design philosophy behind features such as the 'log pile' element or the 'tumbledown' stonework revealing the corner staircase window. Overall, the result would not reflect the appellants' brief of being a simple and vernacular building.
15. Despite the appellants advising that landscape design has been at the forefront of the proposal, very little information has been provided about what the landscaping treatment of the site would be nor how this has been integral to the design approach. Similarly, the appellants point to what they consider to be an innovative approach by way of a combination of engineering and construction methods. However, no information either explaining what the approach would be, nor why it might be considered innovative, has been provided.

³ Previously paragraph 79.

⁴ Previously paragraph 80.

⁵ Previously paragraph 135.

16. Despite the Council's view that its design is not without merit and of a high standard, the proposals do not consequently demonstrate a design approach that could be considered as truly outstanding and reflecting the highest standards in architecture. Neither could the proposal reasonably be considered to help to raise standards of design in rural areas. Whilst the potential exists for the enhancement of the landscape of the site including the former gardens and its landscape features, it has not been satisfactorily demonstrated that the proposal would significantly enhance its immediate setting, nor be sensitive to the defining characteristics of the local area. For a design to be of exceptional quality and truly outstanding it is not sufficient just to have a design or appearance that is distinct or different to its surroundings, nor to use materials or architectural features in novel configurations or combinations.
17. There is no substantive evidence in the appellants' PSS or elsewhere to back up the appellants' claim that the design would achieve these objectives. For example, there is no evidence that the design team have any particular track record or recognition for design excellence for buildings of this type, such as architectural or design awards. Furthermore, although the appellants refer to discussions with the Council and lists some minor consequential changes, there is no evidence that the scheme has evolved, been influenced or been recognised through any peer review or critical appraisal of its design that might help to demonstrate its quality.
18. Consequently, the proposal would fail to meet the Framework's exception for new homes in such a location. For the same reasons the development would not attract the significant weight the Framework, at paragraph 139⁶, requires to be given to outstanding or innovative designs which promote high levels of sustainability, along with other criteria. The appellants' detailing of the evolution and development of Framework policy in paragraph 84 e)⁷ over the years is of little relevance as the proposal needs to be considered in light of the current version.
19. The proposal is clearly contrary to LP Policies HC2 and ENV6. The material consideration of the Framework's housing and design policies do not indicate that the plan should not be followed in this regard.

Character and appearance

20. Apart from the garage block, the site has a green and undeveloped character and appearance where the remains of former garden and landscape features have largely been subsumed into its overgrown nature. Along with the extensive areas of trees, this undeveloped and natural looking aspect of the site makes a positive contribution to the rural character and appearance of the area.
21. Burniston and Cloughton benefit from a largely undeveloped countryside setting contributing to their character and appearance as distinctive settlements set within a rural area. There is a clear undeveloped gap between the Old Mill group and Cloughton to the north. Although closer, on the Burniston side there remains a perceptible and clear separation between the Old Mill group, the former school (now gallery) on the other side of Mill Lane, and the nearest buildings to the south including the row of houses along

⁶ Previously paragraph 134.

⁷ Previously paragraph 80 e).

Quarry Bank, and the nearest of the row of houses on the east side of Mill Lane.

22. Although it is not formally designated or protected, this countryside between the two also makes a positive contribution to the character and appearance of the area of countryside. The site in turn makes a positive contribution to both the countryside and the setting of the settlements and is an important component in the countryside space between the settlements.
23. By introducing the substantial built form of the house to the group of dwellings it would materially extend the spread of the group to the south and west, and considerably intensify and consolidate the Old Mill grouping of buildings. This in turn would erode the undeveloped area between Burniston and Cloughton, undermining their separate identities and incrementally contributing to the coalescence of the settlements to the detriment of the character and appearance of the countryside which sits between the two and their countryside setting. I note that in this respect Inspectors in previous appeals⁸ on the site made similar findings and, from their descriptions, the spatial relationships between development have changed little in the succeeding decades.
24. Whilst there are trees around the site and the potential for landscaping to provide additional screening it is unlikely that this would be so extensive as to effectively hide the proposal from all views and in its presence would remain perceptible to different extents throughout the year.
25. Furthermore, the design shortcomings set out above not only show that the design would not be high quality or outstanding architecture but the combination of its extensive size, appearance, materials, detailing and situation on the site would render it an intrusive feature in the countryside. This would harm the relatively undeveloped nature of the site and its surroundings, and appear in harmful contrast to, rather than harmony with, those buildings which exist nearby and farther afield.
26. Although the appellants point to the linear pattern and form of the outskirts of Burniston to the south, the proposed dwelling, although elongated in plan form it would not follow this pattern due to its set back position. In any event its proximity to the settlement is a contributory factor in the harm the proposal would cause in terms of the area's character and appearance.
27. The development would consequently not accord with LP Policies DEC1 and EN7. Together, and amongst other criteria, these promote the principles of good design and seek to prevent harmful development which results in the loss of the individual characteristics, and the unacceptable coalescence, of settlements.

Other Matters

28. The appellants' images of proposed rural houses elsewhere in the country do little more than illustrate that in particular circumstances some proposals have been considered acceptable in light of the Framework's exception. Those circumstances have not been shown to be present in this case, and in any event the appeal has been determined on its own merits.

⁸ Including T/APP/T2730/A/83/002918 & 004141/PE3, T/APP/T2730/A/89/114957/P2, T/APP/T2730/A/89/145062/P2 and T/APP/H2733/A/92/206139/P7.

29. The appellants advise that the dwelling would be a self-build scheme, the supply of which the Government is actively seeking to increase. Nevertheless, I have been presented with no mechanism that could ensure that any development would be constructed in that manner. In any event, I have not been provided any information about the supply of, and demand for, suitable sites for self- and custom-build homes, and therefore nothing to suggest that in this case the self-build nature of the proposal should attract any additional weight.
30. Parts of the site have the remains of garden structures including a swimming pool and there is an existing block of garages in one corner. However, bearing in mind the Framework's definition⁹ of previously developed land, the Framework's encouragement of making effective use of land does not indicate that the site should be developed contrary to other Framework and development plan policies. The proposal's situation outside a settlement would avoid the substantial weight that the Framework identifies at paragraph 124 c)¹⁰.
31. Although the Framework identifies¹¹ the important contribution small and medium sized sites can make to housing supply, this is not set out in terms that would override other policies. The site's ability to support a healthy lifestyle would not be unique to this development and the Framework's support¹² of such does not mean the proposal carries any additional weight as a result.
32. The appellants' exploration of the evolution of the policy in Framework paragraph 84 e)¹³ is of little relevance to the consideration of the appeal against the current Framework.
33. Given the scope of permitted development rights that might be withdrawn by such mechanisms, the absence of an Article 4 direction on the site does not indicate that the site makes a reduced contribution to the character and appearance of the area and does not support the construction of a new dwelling in this location.

Conclusion

34. A single dwelling would only make a modest contribution to the local economy by way of its construction and subsequent occupation. Any benefits that may arise by way of the improved appearance and management of the abandoned looking former gardens would be limited. Although the Framework supports the Government's objective of significantly boosting the supply of homes¹⁴, this single dwelling would only make a very small contribution to this aim and considered overall the development would not accord with the Framework's policies. The limited benefits of the proposal would be outweighed by its harmful effects.

⁹ Which includes the curtilage of the developed land but with the caveat that *it should not be assumed that the whole of the curtilage should be developed*.

¹⁰ Previously paragraph 120 e).

¹¹ At paragraph 70, previously paragraph 69.

¹² At paragraph 96, previously paragraph 92.

¹³ Previously paragraph 80 e).

¹⁴ At paragraph 60.

35. The proposal would not accord with the development plan considered as a whole and material considerations do not indicate determining the proposal otherwise. For the above reasons, the appeal is dismissed.

Geoff Underwood

INSPECTOR