



Appeal Decision

Site visit made on 16 April 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/P2365/W/23/3330230

Land to the rear of 3 and 7 Clyffes Farm Close, Scarisbrick L40 9SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Scarisbrick against the decision of West Lancashire Borough Council.
 - The application Ref is 2022/0633/FUL.
 - The development proposed is construction of a new dwelling and associated external works following demolition of existing agricultural storage building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. In this instance, the relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal.
3. I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. I have also had regard to the duty imposed by section 72(1) of the Act which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Paragraph 195 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Main Issues

The main issues are:

- The effect of the proposed development on the significance of designated heritage assets;
- The effect of the proposed development on trees; and
- Whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to daylight in the outdoor space.

Reasons

Heritage assets

4. The Scarisbrick Park Conservation Area (CA) is predominantly focussed on the parkland associated with Scarisbrick Hall (the Hall), which lies roughly at its centre. The Council's Conservation Area Appraisal (2001) suggests that the estate dates to the 13th century, with the current park probably formed in the 1790s and the gothic Hall largely rebuilt in the 19th century to designs by AWN Pugin and his son. The Hall with its striking tower is a defining feature of the CA, as are the belts of trees surrounding the park boundary which are noticeable in the largely flat, agricultural landscape. The parkland is also designated as a Grade II registered park and garden (Ref 1000951) (RPG) with the boundary following a similar alignment to the CA, although excluding the appeal site apart from a section of access track. The RPG designation is related to the Hall and its landscape park which has links to Humphrey Repton.
5. Overall, based on the written evidence and my observations, the significance of the CA and the RPG insofar as they relate to this appeal, derive from the range of built development within them, and the relationship of the buildings to each other and the spaces around them. In this regard, the main elements are the central cluster of historic buildings associated with the Hall, the expansive parkland setting and the screening perimeter belts of trees which give the estate an enclosed character and appearance.
6. To the north east of the appeal site is St Elizabeth's Catholic Church, a Grade II listed building (Ref 1073116). It is a late 19th century sandstone building in the Decorated style by the Pugin architects. Based on the evidence before me, including the list description, I consider that the special interest and significance of this listed building mainly derives from its historic fabric, form, function, and its architecture. Insofar as it relates to the appeal site, this is mainly experienced from the area immediately surrounding it and from Hall Road.
7. Within the parkland are numerous listed buildings which are mentioned in the RPG listing. These include the Grade I listed Scarisbrick Hall, as well as stable buildings, an icehouse and lodge. As a statutory consideration, I am required to have regard to these properties in determining this appeal. From the information before me and my visit, I consider that given the location of these buildings in relation to the appeal site, together with the planting between them, there would be little intervisibility with the appeal proposal. As such, I consider that, in relation to this appeal, the appeal site does not directly form part of their setting. However, despite this, any detrimental impact on the margins of the estate including the erosion of the screening effect of perimeter trees would have the potential to harm, albeit to a small extent, the collective value of the designated heritage assets associated with Scarisbrick Hall and its parkland.
8. The appeal site adjoins a cluster of residential properties on Clyffes Farm Close. It is a mainly grassed plot with a relatively modern agricultural building towards its southern end with the boundaries fringed by hedges and trees. Culshaw's Plantation lies to its south and The Marquis' Walk is a tree avenue defining its southeastern boundary which gives access to the church. Culshaw's Plantation is part of an extensive tree preservation order (TPO) which encompasses many of the perimeter tree belts on the estate, and a separate

TPO covers individual trees on The Marquis' Walk. From what I have seen and read it is apparent to me that the plantation and The Marquis' Walk are part of the designed parkland to the Scarisbrick Hall estate, and they contribute to the significance of the CA and RPG. I also note from the site location plan that the appellant appears to own land adjoining the appeal site which contains protected trees. The agricultural building, although almost extending across the width of the plot, is relatively low in height compared to nearby dwellings. Therefore, the combination of its height, scale and muted colour results in only glimpses of its roof in views from the church or in views between nearby dwellings.

9. Despite the presence of the agricultural building, at my visit I saw that the verdant, green nature of the appeal site acts as a landscape buffer between the built-up area and the parkland, with the trees and shrubs on its perimeter contributing to the screening effect when viewed from the parkland. Furthermore, the appeal site provides a mostly green, rural setting to the tree-lined Marquis' Walk making it visibly detached from nearby domestic gardens. The area, therefore, has a much closer visual affinity with the Culshaw's Plantation and the Marquis' Walk than to the adjoining residential area.
10. The proposed dwelling would occupy a similar location to the agricultural building but would be sited closer to the boundary with the existing dwellings and of a much-reduced width, lying further away from the trees alongside the avenue. A gravel area, including two car parking spaces would be laid out on the approach to the dwelling and large glazed doorways would be sited on the gable end facing the parkland boundary. Although the height of the proposed dwelling would be greater than the existing building it appears to me that its height, scale and massing would be smaller than most nearby houses.
11. The proposed dwelling would be barely visible from Clyffes Farm Close due to the intervening buildings and planting. Likewise, in views from the church grounds, although the proposed dwelling would be of greater height, in my view it would be no more noticeable than the existing building due to intervening trees filtering the view and the presence of nearby built development. However, whilst current views of the appeal site from the open historic parkland are to some extent obscured by the shrubs and trees on the perimeter of the site, I saw that this planting appeared somewhat unkempt. This is noted in the Arboricultural Impact Assessment with Tree Protection Measures (May 2022) (AIA) which comments that several trees may benefit from general arboricultural works as part of a post-development management strategy which is not covered in the report.
12. Although works to protected trees would be subject to consent from the Council, given their potential effect on the living conditions of future occupants of the new dwelling (discussed later in this decision), such works may be difficult to resist. In turn this may lead to significant works to the tree canopies in and around the site, with subsequent harm to the contribution that these trees make to the character and appearance of the area. The desire for a more open aspect is to some extent indicated in the appellant's visualisations showing a more open tree canopy on the boundary and larger windows and a seating area facing the parkland.
13. The site is therefore likely to become more open, manicured and residential in appearance which would reduce the effectiveness of this more naturalistic,

green landscape buffer between the historic parkland and more recent residential development. This would be detrimental to the significance of the CA and RPG and ultimately to the collective setting of other heritage assets within these areas. Furthermore, the rural setting of the Marquis' Walk would be diminished with the residential garden directly adjoining it, especially with no adequate details of a boundary.

14. Considering all of the above, I find that the proposal would have a significantly harmful effect on the significance of the designated heritage assets, including the RPG, the character and appearance of the CA and on the collective value of designated heritage assets associated with this historic landscape. Therefore, with regard to the CA and listed buildings, the expectations of the Act are not met. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification.
15. I find the harm in the context of the significance of the heritage assets as a whole, in the language of the Framework, to be less than substantial in this instance. This commands considerable importance and weight¹ and is not to be treated as a less than substantial objection to the proposal. It follows, therefore, that this harm should be weighed against the public benefits of the proposal.
16. In terms of public benefits, the proposal would result in the provision of one new dwelling which would help contribute to housing supply. Minor economic benefits would arise from its construction and occupation, whilst there would also be minor benefits in terms of supporting local services. The appellant has also set out that the proposed development would enhance the site, removing an incongruous agricultural building. However, although there may be few agricultural buildings of this type in the CA, I have found that the current building is not unduly prominent in the area and that the proposed dwelling and domestication of the plot would be likely to cause more harm to the designated heritage assets.
17. Therefore, I conclude that the comparatively minor public benefits identified would be of insufficient weight to outweigh the great weight to be given to the significant harm to the designated heritage assets. As such, the proposal would not comply with the Act and the Framework. In addition, there is no clear and convincing justification for the harm. It would also conflict with Policy EN4 of the West Lancashire Local Plan (2013) (LP). This policy, amongst other things, seeks to protect and enhance historic assets and their settings.

Trees

18. Whilst the appellant's AIA assesses trees on and immediately adjoining the appeal site, it contains no substantive evaluation of the trees alongside the retained access track. I saw on site that this track appeared to be of compacted stone at the start of its length and then became a softer, muddy track as it looped into Culshaw's Plantation before reaching the appeal site.

¹ Barnwell Manor Wind Enterprise Ltd v East Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ. 137.

19. The appellant is proposing no works to the track through Culshaw's Plantation, stating that it is in good condition and is already used by agricultural and commercial vehicles. It is suggested that the proposed vehicular traffic to the dwelling, although perhaps of greater frequency, would be lighter than the current vehicles and the existing track would therefore be adequate. However, whilst the track surface may currently be adequate for the appellant's needs, it is likely that construction vehicles would further churn up its surface and it appears too narrow for most vehicles to pass. Also, future occupants may well require a smoother, cleaner surface for domestic vehicles, resulting in an upgrade which may affect adjoining trees. Therefore, in the absence of further information, necessary works to the access track may cause damage to the root systems of nearby protected trees which could lead to their decline or loss in the future.
20. The Council also sets out that the proposal would result in a dwelling with an overshadowed garden which may cause future occupants to seek to remove the trees to improve the light and views. The appellant's Daylight and Sunlight Report (June 2022) (DSR) acknowledges that there would be shading from the trees, although it concludes that the development proposed passes the BRE overshadowing to gardens and open spaces test.
21. I visited the appeal site on a relatively bright, sunny day at mid-morning. The surrounding trees were just starting to come into leaf, with dappled sunlight to the front of the plot and some larger pools of sunlight on the area which would form the rear garden. I saw also the close proximity of numerous mature trees, particularly those along the Marquis' Walk, many of which had overlapping canopies. The Council's Tree Officer suggests that such a close relationship to the trees would result in future occupiers being able to navigate the TPO system to remove trees as they would not have any garden that is useable for growing or sitting in the sun and considers that this should be properly considered at the planning stage. However, I am not convinced that the situation would be quite as bleak as this scenario, as the garden is likely to be large enough to move around to find some sun and it has not been demonstrated that the garden would not be so dark that plants could not grow.
22. Despite this, and notwithstanding my conclusions below with respect to living conditions, I consider that shading from trees would not need to have a significant effect on living conditions for future occupants to seek their removal. Also, the implications of living next to such large trees may not be fully appreciated until occupation. In this regard, I have already mentioned that it is likely that future occupants may seek to thin or remove trees to achieve a lighter garden with more open views of the parkland, and it appears that the affected trees are in the ownership of the appellant.
23. Therefore, taking a precautionary approach, on the basis of the evidence before me, I am not convinced that the proposed development would not result in harm to the trees. The proposed development would therefore be contrary to LP Policy GN3 which seeks to minimise the removal of trees and have regard to the landscape character. It would also be contrary to LP Policy EN2 which, although not listed in the Council's Decision Notice, is mentioned in the officer report and this seeks to resist the loss of woodlands and trees of significant amenity or historical value. There would also be conflict with the Framework which recognises the important contribution of trees and that trees should be retained wherever possible.

Living conditions

24. I have already commented that the presence of trees on and adjoining the site may lead to shading of the proposed garden which may cause future occupants to seek to remove or carry out works to them. Whilst a degree of shading is acknowledged by the aforementioned DSR, this also concludes that the development proposed passes the BRE overshadowing test.
25. Overall, therefore, whilst I agree with the Council that the presence of trees could become a nuisance to future occupants as outlined above, based on my observations on site and no substantive evidence to the contrary, I am satisfied nonetheless that the outdoor space would not be overshadowed to the extent that it would be harmful to living conditions. In this regard the proposal would comply with LP Policy GN3 which seeks to ensure that developments provide sufficient garden space and are of high design quality. The proposal would also comply with the provisions of the Framework insofar as it seeks to ensure new developments provide a high standard of amenity for future users.

Other Matters

26. The appeal site is located near to Ribble and Alt SPA, Ribble and Alt Estuaries Ramsar, Martin Mere SPA and Martin Mere Ramsar. Accordingly, referring to the Framework, the Council has undertaken an assessment of likely significant effects of the proposal in accordance with the Habitats Regulations. This concludes that there would be no likely significant effects on the above sites.
27. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. Nevertheless, as I have found the proposal to be unacceptable for other reasons, there is no need for me to undertake an appropriate assessment or to consider this matter further.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR