



Appeal Decision

Site visit made on 1 February 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2024

Appeal Ref: APP/E2001/W/23/3322689

80-88 St John Street, Bridlington YO16 7JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Hoggart of St Mary's Retirement Housing against the decision of East Riding of Yorkshire Council.
 - The application Ref 22/00236/OUT, dated 21 January 2022 was refused by decision dated 13 February 2023.
 - The development proposed is erection of a building consisting of up to 15 supported living/retirement apartments following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used on the planning application form referred to "26no. *proposed supported living /retirement apartments*". However, the scheme was amended during the consideration of the planning application and a revised description of the development agreed. As the revised description more accurately reflects the scheme which is before me, I have used it also.
3. In reaching this decision, I have had regard to the revised version of the National Planning Policy Framework ('the Framework') which was published on 20 December 2023, and I have sought the parties' comments upon it. Accordingly, no party has been prejudiced by me doing so.
4. The planning application was made in outline form, with matters relating to access, appearance and landscaping reserved for future consideration. As such, the submitted plans can only be taken as being indicative at this stage, other than where they relate to layout and scale.
5. Although not forming part of the Council's reasons for refusal, the effect of the proposal upon the setting of a Grade II listed building ('LB') was identified within the provided committee report and has been addressed by the main parties in their evidence. Additionally, I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Therefore, I have considered the effect of the proposal upon the setting of the LB in reaching my decision.
6. Although also not a reason for refusal, the effect of the proposal upon protected species and habitats, is a potentially determinative issue. I have

therefore elevated this matter to a main issue and the main parties have been afforded opportunity to comment upon it.

Main Issues

7. The main issues are the effect of the proposal upon:

- protected species and habitats;
- the character and appearance of the area, including designated and non-designated heritage assets;
- highway safety, and;
- the operation of a neighbouring business;

Reasons

Protected Species

8. Paragraph 99 of Circular 06/2005¹ ('the Circular') states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat.
9. The appellant has provided a Preliminary Roost Assessment ('PRA'). The report states that the assessment included an inspection of all accessible exterior and interiors of the building for bat roosting potential, or evidence of existing roosts. Whilst no such signs were found, the PRA acknowledges its limitations as the assessment was carried out in daylight hours and that not all of the site was accessible, including two loft spaces. The report concludes that three of the buildings on the site have moderate potential for supporting roosting bats.
10. The PRA recommends that further daytime survey work be carried out to the inaccessible areas, and that two surveys be carried out during peak survey season at dawn and dusk. These surveys do not form part of the evidence which is before me. The main parties agree that these could be secured by means of a planning condition requiring any reserved matters submission to be accompanied by the required surveys.
11. The proposal is in outline format, and I accept that mitigation could be incorporated into any fully developed scheme at the reserved matters stage. I also note that the PRA did not find any evidence of bat activity. However, the PRA did identify the moderate potential of buildings on the appeal site to support roosting bats, and the need for further survey work.
12. Without this additional survey work, it is not known if, or to what extent bats are currently using the site for roosting purposes. The Circular is clear in stating that it is essential that the presence or otherwise of protected species, and the effect on them by a proposal, is established before planning permission is granted.
13. Whilst mitigation measures could be identified at the reserved matters stage, it has not been shown, at the point of determining whether planning permission should be granted, that such measures would be capable of mitigating any

¹ Circular 06/2005: Biodiversity and geological conservation – statutory obligations and their impact within the planning system

harm or providing enhancement for the protected species. It is not, therefore, appropriate for such a matter to be dealt with by means of planning condition.

14. In the absence of sufficient information to assess the extent of the potential impact of the proposal upon protected species, I am also unable to determine whether the need for, or public benefits of the proposal would outweigh any potential harm.
15. I therefore conclude that the appellant has failed to demonstrate that the proposal would not harm protected species, specifically bats. Therefore, the proposal would conflict with Policy ENV4 of the East Riding Local Plan Strategy Document 2016 ('ERLPSD'), which states that proposal should conserve, restore or enhance biodiversity, including Priority Habitats and Species.
16. Furthermore, the proposal would also conflict with Chapter 15 of the Framework, which states that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. As the extent of any potential effects has not been demonstrated, I am unable to conclude that it would not lead to significant harm.

Character and appearance

17. The appeal property comprises a partially painted red-brick building which exhibits a number of phases of development. At its core is a former chapel, later Priory Church Institute potentially dating from the 19th century. Although those original features that are retained indicate this former use, there are a number of more modern additions to the building which have greatly altered its character. These include a large commercial storage building clad in corrugated metal attached and located to the rear, a large two-storey side extension and the encasement of the ground floor front elevation with a shopfront. In addition, several windows have been lost, curtailed or replaced and the internal fabric of the building is primarily of modern appearance.
18. The significance of the appeal property, insofar as it relates to this appeal, is derived from its former use as a Wesleyan chapel and its association with the Priory Church Institute. There is potentially some historic significance in its possible association with the local architect Joseph Earnshaw. Although there is some architectural significance due to the age of the core of the building, the later additions and alterations, including but not limited to the loss of the entirety of the earlier ground floor front elevation, means that this is minor. The Council considers the building to comprise a non-designated heritage asset ('NDHA').
19. To the south of the appeal site is Burlington Methodist Church, which is a Grade II LB. The significance of this building, insofar as it relates to this appeal, is derived from its formal Gothic and Italianate architecture, the high quality of materials and its scale, which together provide it with local landmark status. Further significance is derived with its association with Joseph Earnshaw, and its continued use as a place of worship. There is some shared significance between both the LB and NDHA given their proximity and related origins, as well as a possibly shared architect.
20. The LB is set back from St John Street, behind its own parking area. To the south is a modern supermarket and associated car park. This provides an open

aspect that enables the significance of the LB to be appreciated when approached from the south. From the north, the LB is less prominent and its setting more limited. Two-storey road frontage development along St John Street interrupts views, which are mainly restricted to glimpses of the LB above roof tops.

21. In physical terms, therefore, the association between the appeal site and LB is loose, with intervening buildings and the set-back nature of the LB, along with the significant alterations to the NDHA that have already taken place meaning that there is little physical and visual relationship between the existing buildings. The NDHA is not prominent in views of the LB from the south on St John Street, and there are only glimpsed views of the LB behind the NDHA when viewed from the north.
22. The provided indicative plans demonstrate that the proposal could be accommodated within a building of commensurate scale to others within the street, and in doing so, the proposal would be unlikely to materially affect the way in which the LB is experienced. As matters relating to the appearance of the proposal are reserved for later consideration, these fall outside the scope of this appeal. However, on the basis of the evidence before me, I am satisfied that a scheme of suitable design that would not harm the character and appearance of the area could be developed.
23. The proposal would lead to the total loss of the NDHA. This would also lead to a loss of significance. However, given the current condition of the building and the alterations that have previously taken place, this loss of significance would be minor.
24. Paragraph 209 of the Framework states that the effect of a proposal upon the significance of a non-designated heritage asset should be taken into account, and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
25. The appeal scheme would lead to the provision of 15 new dwellings for older persons for which there is an identified need in a sustainable location and would make use of a previously developed site. It would also boost the supply of housing in the area more generally, including the provision of affordable housing. Furthermore, it would also deliver economic benefits during construction, and in the longer-term following occupation, as well as some environmental improvements. These benefits carry such weight that they would outweigh the comparatively minor loss of significance that would result from the loss of the NDHA.
26. The proposal would have a neutral effect upon the setting of the LB, thereby preserving its significance in accordance with Chapter 16 of the Framework.
27. For these reasons, I conclude that the proposal would not harm the character and appearance of the area. It would therefore accord with ERLPSD Policies ENV1 and ENV3, which together and amongst other factors, state that proposals should contribute to safeguarding and respecting the character and appearance of the area, including the specific characteristics of the site's context, as well as ensuring that the significance and setting of heritage assets is conserved, and harm is likely to be caused, that such harm is weighed against the public benefits of the proposal.

Highway safety

28. It is common ground that a proposal of 15 single bedroom flats would normally be subject to a maximum parking provision of a single car parking space per flat for occupiers, with a further single visitor parking space per four dwellings.
29. The provided Parking Addendum indicates, and it is not disputed, that car ownership levels amongst over-55s and over-60s in the East Riding of Yorkshire are 83% and 80% respectively. Whilst the Council's parking standards do not distinguish between types of C3 uses, given the age restricted nature of the proposal, which could be secured by means of planning condition, the appellant's position that car ownership levels would be lower than average is a reasonable one. This position is also accepted by the Highway Authority.
30. On the basis of 83% car ownership, this would reduce the number of required spaces for residents to 12. Overall, this would lead to a requirement for 16 parking spaces within the site and it is stated that 12 would be provided. It is therefore likely that the proposal would lead to an increase in demand for on-street parking.
31. I observed that St John Street is a reasonably busy main route towards the town centre. The road is relatively wide and there is on-street parking available on both sides of the road close to the appeal site, although I understand that few properties and businesses in the street benefit from off-street parking facilities, so there is an existing demand for such parking. Nevertheless, although only a snapshot in time, there were several spaces available in the street at the time of my visit.
32. Although I accept that at times the road may be busy, there is no substantive evidence before me to indicate that it operates in an unsafe manner or that it is subject to unreasonable parking stress such that it affects highway safety. The likely level of parking demand which would be unable to be accommodated within the appeal site would amount to four vehicles. This is a low level of additional demand, and furthermore, would be likely to comprise visitors to the development and would therefore be subject to a reasonably high turnover. This would reduce the likelihood of existing on-street parking spaces remaining unavailable for longer periods.
33. Overall, it has not been shown that this relatively low level of additional demand would lead to unacceptable harm to highway safety. The proposal would therefore accord with ERLPSD Policies EC4 and ENV1, which amongst other factors, states that proposals should promote safe access, movement and use, and that parking at new developments should reflect public transport access, expected car usage and efficient use of space.

Neighbouring business

34. The appeal site is located adjacent to the Old Ship Inn which is a public house ('the pub'). I understand that to the rear of the pub is a beer garden which is a designated smoking area and is subject to a licence of 0000 hours on weekdays and 0100 hours on a weekend. It is also stated that the pub hosts live music and karaoke at weekends. The street is characterised by a mix of uses, with residential properties located close to the pub.
35. Although the submitted noise report indicates that the main source of nighttime noise at the appeal site is generated by traffic, this survey was carried out on a

weeknight, and I accept that it is nevertheless possible that activity both within and outside of the pub could generate noise in the evening at the present time. The proposal would introduce further residential development in close proximity to the beer garden.

36. Paragraph 193 of the Framework states that new development should integrate effectively with existing business and community facilities, including pubs. Existing businesses and facilities should not have unreasonable restriction placed on them as a result of development permitted after they were established. Where the operation of an existing business or facility could have a significant adverse effect on a new development in its vicinity, the agent of change should be required to provide suitable mitigation before the development has been completed.
37. There is no substantive evidence before me to indicate that the operation of the pub at present has led to noise complaints from the occupiers of neighbouring properties, and on this basis and having regard to the provided noise report, it appears to be currently operating in a manner suitable for the mixed-use nature of the street. Furthermore, the application was made in outline form and it would be possible to take account of any need to mitigate noise generated by the adjacent use in reaching a final design for the scheme, particularly with regard to the location and specification of windows.
38. Concluding on this main issue, I find that the proposal would not lead to harm to the operation of a neighbouring business. It would therefore be in accordance with ERLPSD Policies ENV1 and ENV6, which amongst other factors, seek to ensure that new development delivers a good standard of amenity for all, and that pollution is adequately managed. It would also accord with Paragraph 198 of the Framework.

Planning Balance and Conclusion

39. I have found that adequate justification has been provided for the proposed demolition of the non-designated heritage asset on the site. I have also found that the proposal would be acceptable with regard to its effect upon the character and appearance of the area, highway safety and the operation of a neighbouring business.
40. However, in the absence of sufficient evidence to the contrary, I am unable to conclude that there would not be harm to protected species. The proposal would therefore be contrary to the development plan when read as a whole.
41. Although the proposal would result in a number of benefits, which I have set out above, there are no material considerations, including the Framework, which would indicate that a decision should be taken other than in accordance with the development plan.
42. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR