



Appeal Decision

Site visit made on 15 March 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th April 2024

Appeal Ref: APP/U2750/W/24/3336199

Cragburn, 14 Holly Park, Huby, North Yorkshire LS17 0BT

- 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 Paul Fletcher against the decision of North Yorkshire Council.
 - The application Ref is ZC23/02379/FUL.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling at Cragburn, 14 Holly Park, Huby, North Yorkshire LS17 0BT in accordance with the terms of the application, Ref ZC23/02379/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The appeal site is within the Green Belt and so the main issues are:
 - Whether or not the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (2023) (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupants of 14 Holly Park and Rose Martin with regard to outlook and light;
 - If the proposed development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Site and appeal development

3. The appeal site comprises an area of land in between two existing residential properties, namely 14 Holly Park and Rose Martin. Holly Park has a pronounced incline and contains residential properties of various designs. It has a verdant setting with most properties having landscaped gardens and there are notable mature trees both to the rear of the appeal site and within the street-scene.

4. The proposed development is for the construction of a two-storey detached dwelling, with accommodation also proposed to be provided in the roof-space, resulting in accommodation over three floors. This is a similar arrangement to that at the adjacent property. Like many of the surrounding properties, the proposed dwelling would have parking to the front and private amenity space to the rear.

Whether or not inappropriate development in the Green Belt

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 154. One of the exceptions, as set out in paragraph 154 e), is the limited infilling in villages. Policy GS4 of the Harrogate Local Plan (2020) states that development within the Green Belt will be determined in accordance with the relevant national policy.
6. The Framework does not provide a definition of infilling. I have taken it to mean the development of a relatively small gap between existing buildings. The appeal proposal would serve to fill a gap in an otherwise developed road frontage between existing buildings. Although the Council suggest that the appeal site forms part of the garden of no. 14, it was clear from my site visit that a severance had occurred, with the site very much appearing as an undeveloped plot of land. The development may therefore be considered to be infill. However, this is but one criteria of the exception, the others being that it must also be 'limited' and in a village.
7. It is not in dispute between the main parties that the appeal site is located within the village of Huby. Given the proximity to services and facilities such as the village hall, train station and recreational facilities, I have no reason to form a different view. Therefore, for the purposes of the Framework, the appeal site is within a village and satisfies that element of the exception.
8. The Framework does not provide a definition of what constitutes 'limited'. The reference to 'limited' in exception e) of the Framework requires a consideration of quantum, scale and form of the development and has to be interpreted in the context of the overall aim of Green Belt policy.
9. The proposed development comprises a single dwellinghouse. In terms of the quantum, this would be limited. Having regard to scale, due to the incline of the street, the dwelling would sit below no. 14 and above Rose Martin. The submitted street-scene elevation shows how the scale of development would not be inappropriate in its context. In terms of its form, the development would be different to the properties on either side, however there is a wide range of forms to surrounding properties and I also find it not to be inappropriate in this context.
10. I therefore find that neither the quantum, scale or form of the dwelling would be excessive. There would be open areas to the front and rear with smaller gaps to the sides which when combined with the spaces around neighbouring properties, would maintain a sense of spaciousness. Therefore, having regard to the size, scale, form and quantum of development proposed, it would constitute 'limited' infilling.

11. I also acknowledge that the appeal site has an extant planning permission¹ for a dwelling to be constructed on the site, and this is a material consideration in the Green Belt assessment.
12. The proposed development would therefore not constitute inappropriate development in the Green Belt. It would comply with the Framework and Policy GS4 of the Harrogate Local Plan (2020).
13. As the proposal does not represent inappropriate development in the Green Belt, it is therefore not necessary for me to consider the effect of the proposal on the openness of the Green Belt.

Character and appearance

14. Although the proposed development is not inappropriate in the Green Belt, this does not exhaust all relevant planning factors relating to visual impact when a proposed development in the Green Belt comes up for consideration. This means that it is possible that a development which would not be inappropriate could nevertheless cause visual harm in terms of character and appearance and vice versa.
15. The proposed development would represent the infilling of an existing gap in the street. Holly Park is characterised as forming a street of historic Victorian villas with several infill properties. This has resulted in a range of property sizes and designs dispersed amongst the more traditional, and what appear to be the original, properties. The street also has a notable incline. Generally, the properties are large and sit in spacious landscape settings.
16. There is therefore no singular dominant or shared design in the street for the proposed dwelling to follow. Its size and siting are broadly consistent with other properties in the street, having a similar building line and footprint. Most of the surrounding properties are two storeys in height, including many with roof level accommodation. This is also the case with the proposed dwelling, and I find its scale and height would not be out of character in the street scene, where it would reflect the staggered approach caused by the incline of the street.
17. Although it would be greater in scale and height than Rose Martin, where there is not as a significant difference in levels as the difference with no. 14, it would be similar to the other large properties in the street. Furthermore, Rose Martin is one of the smaller properties in the street in terms of its overall scale and height.
18. In terms of its appearance, whilst it is a bespoke design, it nevertheless draws on certain elements of the surrounding properties. Such features as the proposed fenestration, bay windows, cills and lintels are reflective of features to other properties in the street. The use of materials that draw on those in the surrounding area would also serve to contribute to a successful assimilation into the surrounding built environment. I do not find that harm would be caused through the use of a hipped roof as this is not an uncommon roof form and, as highlighted by the appellant, is used elsewhere in the street.
19. The Council consider that the dwelling with extant consent is much smaller in scale than the proposed dwelling. Comparing the approved plans and the currently proposed plans, whilst it is evident that the proposed dwelling is

¹ Outline Planning Permission 19/01876/OUT; with associated Reserved Matters approval 22/01000/REM

larger in some respects, when considering the aspect of scale relative to the street-scene, the difference is not substantial.

20. The Council also consider that the rear off-shoot with further hipped roof, large openings and Juliette style balcony would appear incongruous. These aspects of the development would not be readily visible from the street-scene, and whilst I acknowledge that the rear elevation of a property can cause harm to the overall character and appearance of an area, however such features are not out of character in a residential area such as this. They are of an appropriate scale and design, and they do not cause harm.
21. Therefore, the proposed development would not have an unacceptable impact on the character and appearance of the area. It would comply with Policy HP3 of the Harrogate Local Plan (2020) which requires, amongst other things, that developments should respect the spatial qualities of the local area, including the scale, appearance and use of spaces about and between buildings, and respond positively to the building density, building footprints, built form, building orientation, building height and grain of the context, including the manner in which this context has developed and changed over time.
22. It would also comply with the requirement of the Framework that developments are visually attractive as a result of good architecture, and are sympathetic to local character and history, including the surrounding built environment.

Living conditions

23. The proposed dwelling would sit between two existing residential properties, namely no. 14 Holly Park and Rose Martin. There is a significant difference in finished floor level between no. 14 and the proposed dwelling, with no. 14 being higher, that amounts to around 1 storey in height. The proposed dwelling would sit slightly higher than Rose Martin.
24. On my site visit I was able to observe the appeal site from inside no. 14 and from its outdoor amenity space. No. 14 has several windows in the side elevation which overlook the appeal site. At the ground floor level there is a bay window to a habitable room which is the sole window to that room. There are also windows to the kitchen in the side elevation, however these are in addition to windows in the rear elevation. At the first floor, there are two bedrooms where the sole windows are in the side elevation, and to the roof space there is a window to a bedroom, in addition to a roof light in the front elevation.
25. The proposed development would undoubtedly change the outlook from these rooms, particularly where they are the sole windows to those rooms. Although there is limited substantive evidence, there would also be an impact on light levels, however given the southerly orientation this would not be unacceptable. The degree of impact would noticeably reduce as you ascend the property, with the greatest impact being to the ground floor.
26. Although a degree of separation would be maintained, I find that there would be an overall moderate level of harm caused to the outlook from the property. The off-shoot element of the dwelling would be sited further from no. 14, at lower ground level and of a reduced height and scale to the remainder of the dwelling. Although it would project further into the plot than the dwellings on

either side, I find that its overall siting, separation, scale and mass would not result in an unacceptable impact.

27. In terms of the Rose Martin property, this property has three ground floor windows and one first floor window in the side elevation. From my observations on my site visit, and the submitted evidence, these appear to be either to non-habitable rooms or secondary windows. It appeared that the main windows of the property were located in the front and rear elevations. Due to the siting of the development and its overall size and scale, relative to the position of windows in the property, I do not find that there would be unacceptable harm.
28. The Council have referred to the failure of the development to comply with the separation distances outlined in the Harrogate House Extensions and Garages Design Guide (2005). This guidance is, however, aimed at people wishing to extend or improve their home and is therefore not directly applicable to the appeal proposal. I therefore give it limited weight in the appeal.
29. In conclusion on the matter of living conditions, I find that the proposed development would cause a moderate degree of harm to the living conditions of the occupants of no. 14 with regard to outlook. The impact on light levels would not be unacceptable. I find that the proposed development would not have an unacceptable impact on the living conditions of the occupants of Rose Martin with regard to outlook and light. The proposed development would therefore be contrary to Policy HP4 of the Harrogate Local Plan (2020) which requires, amongst other things, that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours.
30. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the extant planning consent for a dwelling is a material consideration of significant weight.
31. I am satisfied that if the appeal proposal were not built, there is every likelihood that such a fallback would be built. I judge that the dwelling of the extant consent would have a greater impact on the outlook from no. 14 than the appeal proposal. This is due to the siting, size and scale of the extant consent relative to the position of windows in no.14, and this has been demonstrated in the appellant's evidence. My assessment acknowledges the off-shoot to the rear that was not part of the consented scheme. I regard the likely erection of such a fallback as a material consideration which would, in this case, on the matter of living conditions, justify making a decision which is not in accordance with the development plan.

Other Matters

32. Although not referred to in the Council's reasons for refusal, I note that representations have referred to the impact on privacy from the Juliette balcony. This feature is however entirely recessed into the property and would not allow any greater degree of overlooking than would be possible from an equivalent first floor window. I therefore do not find that there would be harm caused in relation to loss of privacy.

Conditions

33. I have considered the conditions the Council have put forward in the event the appeal is allowed.
34. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Council recommends a further 9 conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
35. A condition removing permitted development rights should only be imposed in exceptional circumstances. I consider that given the overall design, size and scale of the proposed dwelling, which includes the rear offshoot, such a condition is necessary in the interests of living conditions.
36. Conditions requiring the submission of details of materials and a landscaping scheme are necessary in the interests of the character and appearance of the area.
37. A condition requiring that in the event that contamination is found, a remediation report and validation statement, and that all remediation shall be carried out prior to development commencing, is necessary to ensure the site is free from contamination in the interests of public health and safety.
38. In the interests of water quality, a condition requiring separate systems for the drainage of foul and surface water is necessary.
39. The requirement for the installation of electric vehicle (EV) charge points in new homes is covered by Building Regulations. As planning conditions should not duplicate the requirement of other regulatory regimes, this condition is not necessary.
40. In the interests of the character and appearance of the area, conditions relating to the protection of trees during construction are necessary. These conditions are required prior to the commencement of the development so that trees are protected from the outset. Also, in relation to the construction phase, a condition restricting the hours of construction is necessary in the interests of living conditions.

Conclusion

41. Given my finding that the proposal does not represent inappropriate development in the Green Belt, and there is no other harm in light of the fallback, it is not necessary for very special circumstances to exist to justify the development.
42. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan – Drawing Number PL/01; Proposed Block Plan – Drawing Number PL23; Proposed Floor Plans – Drawing Number PL24; Proposed Floor Plans Sheet 2 – Drawing Number PL25; Proposed Front Elevation – Drawing Number PL26; Proposed Rear Elevation – Drawing Number PL27; Proposed Elevations – Drawing Number PL28.
- 3) The construction of the external walls and roof shall not commence until a sample of the proposed external materials and sample of the proposed external roofing material have been made available on site for inspection by the local planning authority and have subsequently been approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), no extensions, garages, outbuildings, roof or dormer windows other than any expressly authorised by this permission shall be erected without the grant of further specific planning permission from the local planning authority.
- 5) No development shall take place above damp-proof course until a detailed scheme for landscaping, including the planting of trees and or shrubs and the use of surface materials shall be submitted to, and approved in writing by the local planning authority. The scheme shall specify materials, species, tree and plant sizes, number and planting densities and the timing of the implementation of the scheme, including any earthworks required. The landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be

submitted to the local planning authority. No part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the local planning authority.

- 7) The site shall be developed with separate systems of drainage for foul and surface water.
- 8) No operations shall commence on site or any development be commenced until a specification for a root protection area (RPA) in line with Trees in Relation to Construction – Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as specified in accordance with BS 5837:2012 has been submitted to, and approved in writing by the local planning authority. The root protection measures shall be retained at all times during the construction phase of the development.
- 9) No operations shall commence on site in connection with the development hereby approved (including any demolition work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) works required by the approved tree protection scheme and ground protection detail (no dig) are in place. The level of the land within the fenced areas shall not be altered without the prior written consent of the local planning authority.
- 10) No site preparation or construction works shall be carried out outside the hours of 08:00 until 18:00 Mondays to Fridays; 08:00 until 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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