



Appeal Decision

Site visit made on 4 June 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th June 2024

Appeal Ref: APP/E2001/W/24/3339442

Church View, Market Weighton Road, North Cliffe, East Riding of Yorkshire YO43 4UZ

- 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 Chris Bradwell and Ms Samantha Preston against the decision of East Riding of Yorkshire Council.
 - The application reference is 23/01877/PLF.
 - The development proposed is demolition of existing dwelling with erection of replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.

Main Issues

3. The main issues are the effects of the proposal on the character and appearance of the area and on protected species.

Reasons

Character and Appearance

4. The appeal site comprises a relatively modest two storey dwelling with several outbuildings in its grounds. It is the southernmost dwelling in the row of dwellings on the eastern side of the road through North Cliffe.
5. The Council identifies that the site is outside of any defined development limit and so occupies a Countryside location, as defined in Policy S4 of the 2016 adopted East Riding Local Plan Strategy Document (the ERLP SD). Part C.2. of Policy S4 allows for replacement dwellings in the Countryside.
6. The proposed dwelling would be larger than the existing dwelling on the site due to its greater massing. This mainly arises from its taller ridge height and a more extensive first floor level. Irrespective of whether the Council's or appellants' figures on existing and proposed useable floor area is used, the proposed dwelling would exceed the 50% increase set out in paragraph 4.41 of the ERLP SD in terms of replacement dwellings. However, while supporting text

is relevant to the interpretation of the policy to which it relates, it is not itself a policy and does not have the force of one.

7. The main parties have referred to appeal decisions relating to the application of size limits¹. Although full details of these appeal decisions have not been submitted, from the information that is before me, they appear to focus on the effects of the proposal on the character of the surroundings rather than solely on a rigid application of a size threshold.
8. Policy ENV1 of the ERLP SD requires development proposals to contribute to safeguarding and respecting the diverse character and appearance of the area through their design, layout, construction, and use. This includes through having regard to the specific characteristics of the site's wider context and the character of the surrounding area.
9. There is some variety in the dwellings within North Cliffe in terms of age and architectural forms. At the northern end is a more modern red brick two storey terrace. There is a terrace of four gable fronted dwellings and a pair of semi-detached dwellings with gable dormers displaying the arts and crafts style. In between these is a pair of red brick two storey semi-detached dwellings. The nearest property to the site is a detached dwelling with a central gable.
10. The proposed dwelling would be larger in terms of scale and massing than these other properties. However, the front elevation proposed echoes some of the design features that are present within the other dwellings, notably the forward projecting gables. These gables would not exactly match those of the other gault brick dwellings, such as the number of windows per gable and their positioning relative to the eaves, or the roof pitch. Nonetheless, in my view, the proposed design has sought to take its cues from the existing built form. The front gables would provide some articulation to the front elevation and would provide a varied roofline for the building that is reflective of others in the row, even though the proposal is for a single dwelling.
11. Although the ridge heights of the existing buildings are not uniform, the proposed dwelling would be taller than other dwellings in the row. However, the use of the front gables would break up the overall massing of the proposed dwelling such that it would not appear dominant in the street scene.
12. The design, scale, and massing of the proposed dwelling would not be a jarring contrast with the row of properties in North Cliffe. The proposed development would not diminish the rural qualities of the hamlet. Overall, therefore, the proposal would not represent an incongruous form of development, and as such, I conclude that it would not harm the character and appearance of the area.
13. Consequently, the proposal would accord with the requirements of Policy ENV1 of the ERLP SD as summarised above. It would also accord with paragraph 135c) of the Framework which states that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, and the advice in the National Design Guide relating to character and identity.

¹ Appeal references APP/Y3940/W/19/3239783; APP/E2002/W/17/3169207; APP/E2001/W/17/3182529

Protected Species

14. In its appeal statement, the Council identifies that a preliminary ecological appraisal (PEA) for a planning application² on the site submitted following refusal of the appeal proposal identified evidence of bats within the buildings. The Council states that the PEA recommended further surveys are carried out to assess two buildings and trees for use by roosting bats. The Council sets out that one of the refusal reasons for that application related to a lack of information on protected species, and that this matter should have formed part of the assessment of this appeal proposal. It is suggested that a condition be imposed if the appeal is allowed that would require the submission of a full assessment to determine if the development is likely to impact the population of bats prior to works being carried out on the site.
15. The appellants' evidence states that they are aware of the legislation that protects certain species and would accept the condition identified by the Council. No further information has been submitted as part of the appeal documentation on this matter.
16. Based on the evidence that is before me, there is a reasonable likelihood of a protected species being present and affected by the proposed development. This does not appear to be in dispute. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure surveys are carried out should therefore only be left to planning conditions in exceptional circumstances. While the timing for the identification of this issue in relation to the appeal proposal is unfortunate, based on the submitted evidence, in my view there are no exceptional circumstances that would justify a condition requiring survey work.

Other Matters

17. The significance of the Grade II listed Church of St John that is opposite the site is in part derived from the evidence it provides of the architectural style and building techniques of the time. The setting of the church contributes to its significance, with its isolation to the west of the road reinforcing its prominence in the landscape and enabling an appreciation of its architecture and social and spiritual status. For the reasons given above, the proposal would not dominate the street scene and so would not visually distract from the church. When viewed from the surrounding area, the prominence of the church in the landscape would be retained. Consequently, the setting of the listed building would be preserved.
18. I note the concern that the appeal proposal, if permitted, would set a precedent for similar development in the area. However, there is no clear evidence to indicate there is a likelihood of this happening. I have considered this appeal on its individual planning merits and any future proposals for similar developments in the area would have to be considered in a similar way. This would also be the case for any potential future business use at the site.

² Application reference 23/03629/PLF

19. The proposed dwelling would not result in an unacceptable loss of outlook or natural light for residents of the neighbouring dwelling given the position of the proposed dwelling on the plot and the separation distance. No windows are proposed on the elevation facing the neighbouring dwelling and boundary enclosures, which could be secured by a planning condition, would provide appropriate screening between the gardens.
20. None of these other matters would result in harmful effects or conflicts with the development plan.

Planning Balance and Conclusion

21. In respect of the effects of the proposal on the character and appearance of the area, I find that the proposal would accord with the development plan. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
22. The submitted evidence is not sufficient for me to fully understand the impact of the development on a protected species and therefore the need for, or effectiveness of, any mitigation measures. For the reasons given above, it is not something that can be addressed by a planning condition. This is a matter that is sufficiently weighty, as a material planning consideration, to require a decision other than in accordance with the development plan.
23. Consequently, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR