



Appeal Decision

Site visit made on 18 June 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/U2750/W/24/3340728

Scarah Hill, Fountains Road, Ripley, North Yorkshire HG3 3JJ

- 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 J Fuller against the decision of North Yorkshire Council.
 - The application Ref is ZC23/04324/FUL.
 - The development proposed is demolition of 1no. dwelling and garage and erection of 1no. replacement dwelling and garage.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of 1no. dwelling and garage and erection of 1no. replacement dwelling and garage at Scarah Hill, Fountains Road, Ripley, North Yorkshire HG3 3JJ in accordance with the terms of the application, Ref ZC23/04324/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the banner header and formal decision above, I have amended the description of the development from the application form to include reference to the demolition and replacement of the existing garage on site, which is detailed in the existing and proposed plans and described by both main parties in the evidence before me.

Main Issues

3. The main issues are the effects of the proposal on (i) the character and appearance of the area; and (ii) protected species, with particular regard to bats.

Reasons

Character and appearance

4. The appeal site comprises a detached dwelling and its associated curtilage within the Bishop Thornton Vale Fringe Farmland landscape character area. This area features undulating farmland with small plantations and groups of trees. Locally, development is limited and typically agricultural in nature, with scattered farmsteads and some small clusters of residential development. Traditional building materials include local sandstone and blue slate roofs. The existing dwelling sits towards the brow of a hill, in a somewhat prominent position, particularly when viewed from the southwest. The site is partially screened from other vantage points by trees and the topography of the area.

5. The existing dwelling is large and situated within a generously sized plot. It features red brick with Georgian style windows, and a predominantly hipped roof design finished in a red/brown tile. Adjacent to the appeal dwelling is the neighbouring house at Scarah Hill Lodge. This is of similar age and design though more modest in size and form. Both are somewhat unique in this setting and divergent from the local vernacular. The evidence indicates that planning permission has been granted¹ for replacement of Scarah Hill Lodge.
6. The proposal includes the complete demolition and replacement of the existing house and garage at Scarah Hill. The replacement dwelling and garage would also be of considerable size however the evidence indicates that, above ground, the proposal would be no more than 13.9% larger in volume, with a smaller floor area, when accounting for the permitted development outlined in the recently granted Certificate of Lawful Development (CLD)².
7. While the proposal would see an increase in the extent of two storey development, this would consolidate the sprawling and somewhat ad hoc layout of the existing dwelling into a smaller and more coherent footprint, particularly when having regard to the permitted development. Viewed from the southwest, the width of the proposed dwelling would not appear materially wider than the existing. Having regard to the above factors, though larger in some respects, the proposed dwelling would not be materially larger than the existing. It thus would not conflict with criterion B of Policy HS7 of the Harrogate District Local Plan 2014-2035, March 2020 (the Local Plan).
8. The proposal would be finished in coursed ashlar stone to walls, natural slate to roofs and black aluminium glazed doors and windows. Though also not particularly representative of the local farmstead vernacular, the approach to the design and fenestration of the proposed house is inspired by that of the existing and is commensurate with its scale and context. Moreover, the proposed materials would be more in keeping with those commonly used in the surrounding area than the existing, while the proposed fenestration would also be consistent with that of the approved replacement dwelling at Scarah Hill Lodge. The proposal would thus be sympathetic to the existing landscape character and therefore would not conflict with criterion D of Policy HS7.
9. With regard to criterion E of Policy HS7, given that the proposal would be located on the site of the existing dwelling and could not be readily subdivided, I am satisfied that this would preclude retention of the existing dwelling. The Council have not identified any other conflict with the remaining criteria of Policy HS7, and there is no compelling reason before me to conclude otherwise.
10. The proposal would not have a harmful effect on the character and appearance of the area. I have not identified any conflict with Policies HS7, HP3 and NE4 of the Local Plan. These policies, among other provisions, seek to protect, enhance or restore the existing landscape character of the area, prevent the replacement of modest dwellings in the countryside with overly large houses, and ensure development incorporates high quality building, urban and landscape design that protects, enhances or reinforces local distinctiveness. I have also not identified any conflict with the Residential Design Guide or the National Planning Policy Framework (the Framework) in this regard, which seek to secure good design and protect local character and landscape setting.

¹ Council Ref ZC23/03771/FUL

² Council Ref ZC23/02661/CLOPUD

Protected species

11. The planning application was supported by a Preliminary Ecological Appraisal³ and Bat Survey Report⁴. The Bat Survey Report identified bat roosts in the main dwelling and the adjacent garage / annex, as well as the neighbouring cottage. The proposed demolition works would therefore have a high negative impact on roosting bats.
12. The Bat Survey Report confirms that a European protected species licence is required to be granted by Natural England before any work which may impact upon these buildings can be carried out. A mitigation strategy is proposed to detail how the works can be completed with the lowest possible impact on bats. This will form the basis of the licence application to Natural England, which can be applied for once planning permission has been granted.
13. The proposed mitigation strategy comprises placement of 2 pole or tree mounted bat boxes around the site, prior to commencement of any works. Demolition works would only proceed once a licence has been obtained and must be undertaken outside of the summer roosting period. Any bats found during hand stripping of the roofs will be relocated to the new bat boxes.
14. Following completion, access will be provided for bats between roof tiles and the lining of the main house, but not into the loft space itself. Four integrated bat bricks will also be incorporated into each face of the dwelling. Two post works monitoring surveys will be conducted in the first two years post construction to determine whether the new roosts have been successful.
15. The strategy also proposes the provision of a dedicated bat roost within the roof space of Scarah Hill Lodge. However, the Council contend that this would be required prior to demolition and would require implementation of a separate planning permission. In view of this, the appellant has suggested that the bat roost could instead be provided by increasing the height of an existing outbuilding within the appeal site, to provide sufficient and acceptable volume of space at the specified height for the bats, for which planning permission would not be required. A copy of a further CLD recently granted⁵ pertaining to this work has been provided. Based on the evidence before me, I am satisfied that the proposed mitigation measures can be secured, subject to the agreement of final details by means of a planning condition.
16. Notwithstanding my findings above, all bat species are protected under the Conservation of Habitats and Species Regulations 2017. Among other restrictions, it is an offence to intentionally kill, injure, disturb or capture protected birds or bats, or their nests. The appellant remains bound by these provisions at all times and must act appropriately should they encounter protected species or their nests on site.
17. The proposal would therefore not have a harmful effect on protected species, with particular regard to bats. It would be in accordance with Policy NE3 of the Local Plan. This policy, among other provisions, seeks to protect and enhance features of ecological interest and provide net gains in biodiversity, including by permitting proposals which would impact on priority species or habitats only where significant harm can be avoided or adequately mitigated.

³ MAB Environment & Ecology Ltd, Preliminary Ecological Appraisal, July 2023

⁴ Whitcher Wildlife Ltd. Ecological Consultants, Bat Survey Report, 20 September 2023

⁵ Council Ref ZC24/00785/CLOPUD

18. I have not identified any conflict with the provisions of the Framework in this regard, which seeks to protect and enhance biodiversity, supports the protection and recovery of priority species and aims to avoid significant harm to biodiversity.

Conditions

19. The Council has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the Planning Practice Guidance (PPG) and the tests for conditions set out in Paragraph 56 of the Framework.
20. In addition to the conditions I refer to above and the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. Conditions to secure samples of external finishing materials and hard and soft landscaping works are required in the interests of the character and appearance of the area, and to preserve biodiversity. Permitted development rights for further extensions, garages, outbuildings, roof or dormer windows must also be removed to protect the landscape character of the area.
21. In order to minimise risk of contamination and to safeguard the health of those working on the site, future occupiers and visitors, and the occupiers of neighbouring properties, measures to deal with any unexpected contamination, along with any necessary site remediation, are required to be secured by condition. A condition to ensure separate systems of drainage for foul and surface water is required to prevent pollution of the water environment.
22. The approved access, parking, manoeuvring and turning areas are required to be laid out prior to occupation to ensure adequate parking is provided for future occupiers and to safeguard highway and pedestrian safety. The provision of wheel washing facilities are also required for this reason. Provision of electric vehicle charging points is required to secure opportunities for sustainable transport and in the interests of air quality.

Conclusion

23. The proposed development would adhere to the development plan as a whole and there are no other considerations that would outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Ryan Cowley

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:

023023-100 REV B (SITE LOCATION PLAN)

023023-111 REV A (AS PROPOSED SITE PLAN)

023023-215 REV - (AS PROPOSED BASEMENT FLOOR PLAN)

023023-216 REV B (AS PROPOSED GROUND FLOOR PLAN)

023023-217 REV B (AS PROPOSED FIRST FLOOR PLAN)

023023-218 REV B (AS PROPOSED ROOF PLAN)

023023-312 REV B (AS PROPOSED ELEVATIONS)

023023-313 REV C (AS PROPOSED ELEVATIONS)

023023-314 REV B (AS PROPOSED ELEVATIONS)

C-0105 (Drainage Strategy)

BA23070AIA P (Arboricultural Impact Assessment)

- 3) The development hereby permitted shall be carried out in accordance with the Mitigation Strategy set out within the submitted Whitcher Wildlife Ltd. Ecological Consultants Bat Survey Report, dated 20 September 2023.
- 4) Notwithstanding the provisions of condition 3, prior to the commencement of any development (including any demolition), final details of the location and design of the dedicated bat roost to cater specifically to the Whiskered / Brandt's maternity roost shall be submitted to and approved in writing by the local planning authority. The dedicated bat roost shall be provided and completed in accordance with the approved details prior to the commencement of any development (including any demolition) and shall thereafter be retained.
- 5) Prior to the site opening to operational traffic, vehicle wheel washing facilities must be installed on the site access road at Fountains Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities must be kept in place in full working order and available for use whilst the site is operational. All vehicles involved in the transport of waste materials or finished products from the site must leave the site through the wheel washing facility so that no mud or waste materials are deposited on the public highway.
- 6) No development above finished ground floor level shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 7) No development above finished ground floor level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i. tree and shrub planting plans;
 - ii. written specifications, including cultivation and other operations associated with plant and grass establishment;
 - iii. schedules of trees and plants noting species, plant sizes and proposed numbers/densities;
 - iv. earthworks showing existing and proposed finished levels or contours;

- v. means of enclosure, retaining structures and boundary treatment[s];
- vi. hard surfacing materials;
- vii. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied unless otherwise stated within the agreed implementation programme.

- 8) An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwelling hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 amp). Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with the approved details and are operational. The charging point installed shall be retained and maintained thereafter.
- 9) No part of the development must be brought into use until the approved access, parking, manoeuvring and turning areas for all users at Scarah Hill have been constructed. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 10) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 11) The site shall be developed with separate systems of drainage for foul and surface water.
- 12) Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting 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.

END