



Appeal Decision

Site visit made on 10 September 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 30 October 2024

Appeal Ref: APP/U2750/W/24/3344348

Former Bus Dept, Low Street, Carlton, Selby DN14 9PH

- 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 B Dimmack of Dimmack Brothers Ltd against the decision of North Yorkshire Council.
 - The application Ref is ZG2023/0622/FUL.
 - The development proposed is the erection of 5 dwellings following demolition of bus station.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During determination, the number of proposed dwellings on the appeal site was agreed by the main parties to be reduced from eight to five. As such, for accuracy, I have used the development description from the decision notice and appeal application rather than that detailed on the application form.
3. The appeal site had outline planning (LPA Ref: 2006/0577/OUT) and reserve matters permission (LPA Ref: 2010/0064/REM) granted for five dwellings. However, due to pre-commencement conditions attached to the outline planning permission not being discharged and the permission has not been commenced, the Council considers that planning permission has lapsed. While disputing this view, the appellant provides no evidence to the contrary. Accordingly, I have considered the appeal on the basis that the planning permission has lapsed. There is therefore no fallback position to the previous permission, and I have considered the proposal on its own merits.
4. The emerging Selby District Council Local Plan is currently being consulted on and yet to be examined. Given its status and degree of preparation, I afford very limited weight to any emerging policies. The Council also advise that the North Yorkshire Local Plan is at an early stage of preparation and accordingly, I have not given it any weight in my consideration of the appeal.
5. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are in draft and therefore may be subject to change before the final document is published. I have sought comments from the parties as to whether these proposed reforms have any relevance to the appeal, and I have taken the comments received into account in my consideration.

6. The appellant provides a planning obligation made under section 106 of the Town and Country Planning Act 1990, referred to by the appellant as a Unilateral Undertaking (UU), for the provision of a recreational open space contribution. I return to this below.

Main Issues

7. The main issues in the determination of the appeal are the effect of the proposal on:
- character and appearance of the area;
 - living conditions of the future occupants of Plots 2 and 3 of the proposed terrace with regard to overbearing; and
 - whether biodiversity net gain would be provided.

Reasons

Character and Appearance

8. The appeal site is a former bus depot which consists of industrial buildings with a large hardstanding. The buildings are set back from the road and, other than some short sections of rear end and side boundary hedgerows and a mature tree to the front corner, largely devoid of landscaping. The immediate surrounding area is typically residential and, as detailed in the Charlton Village Design Statement Supplementary Planning Document February 2012 (VDS), there is a wide range of house types, styles and sizes including detached, semi-detached and terrace. Most of these properties are aligned to the road and have a mix of frontages and boundary treatments.
9. The proposal would consist of a terrace of three dwellings (Plots 1, 2 and 3) to the front and two detached dwellings (Plots 4 and 5) to the rear. The proposed terrace would be set back from the road and the front area used for vehicle parking. A side access with turning area would provide access to the rear dwellings.
10. The building line of the proposed terrace would follow that of the existing buildings and would not be parallel with the road. This would result in a widening of the front area and a large, paved frontage to be used as parking. The appeal site currently has good separation from neighbouring properties, an open aspect and the surrounding area has a wide mix of existing frontages. However, the proposed large expanse of parking, which would have little detail or landscaping provided, would not be a positive addition and would harm the streetscene.
11. The alignment of the terrace would also reduce the separation between parts of its rear elevation and gardens to the Plot 4 detached dwelling. This would result in the rear gardens appearing small and disproportionately constrained in terms of their relationship with the detached dwellings. Consequently, the rear element of the proposal would represent a cramped form of development which would not be in keeping with the more spacious character and appearance of the area.
12. Although I find the general form of the proposed detached dwellings acceptable in terms of their effect on character and appearance of the area, this would not

address the harm I have found regarding their relationship with the proposed terrace.

13. The Council indicate that it would typically expect back land development to have the larger detached dwellings located to the front and the smaller and more subordinate proposed terrace to the rear. However, little compelling evidence is provided to support this design expectation. Although I have found harm for the reasons detailed above, I see little justification that placing the proposed terrace to the front and detached dwellings to the rear would be uncharacteristic in the streetscene.
14. As a point of note, the figure provided by the appellant of the reserve matters layout shows the proposed terrace more aligned with the road. While the permission for this layout has lapsed, it illustrates that the previous design had a smaller frontage, incorporated front landscaping, and provided greater separation between the terrace and detached dwellings than the proposal before me. These differences in layout show that a direct comparison between the proposal and previous lapsed permission is not appropriate.
15. Overall, the proposal would harm the character and appearance of the area. It would conflict with Policy ENV1 of the Selby District Local Plan February 2005 (Local Plan), Policies SP18 and SP19 of the Selby District Core Strategy October 2013 (Core Strategy), the VDS and Paragraphs 130 and 131 of the Framework. These policies and guidance seek to ensure, amongst other matters, that development is well-designed; is to a good quality; sustains local distinctiveness; has regard to the surrounding local character, identity and context, and is not out of character with the existing area.

Living Conditions

16. The gardens of Plots 1, 2 and 3 of the proposed terrace would be small and provide limited separation to the proposed Plot 4 detached dwelling. While Plot 1's garden would have an open aspect, this would not be the case for gardens of Plots 2 and 3 which would, to varying degrees, face Plot 4's gable. At an approximate 8.2 metre height this gable would be a significant and imposing feature on the gardens. It would have a dominant and overbearing effect on Plot 2's garden which directly faces it and this would harm its use and enjoyment. In the case of Plot 3's garden, which partly faces Plot 4's gable, while there would be a lesser dominant and overbearing effect, it would still cause some harm to the use and enjoyment of the garden.
17. It is contended that the layout provides the best possible configuration, better than required internal space standards and functional amenity space which is proportionate to each dwelling size and is in line with both local and national planning policy. However, little compelling evidence is presented to show the size of Plots 2 and 3's gardens would be sufficient to prevent the dominant and overbearing effect I have found.
18. Consequently, the proposal would result in the living conditions of the future occupants of Plots 2 and 3 being adversely affected by overbearing. The proposal would conflict with Policy ENV1 of the Local Plan and Paragraph 130 of the Framework which seek new development, amongst other matters, is to a good quality which takes account of the effect upon the amenity of adjoining occupiers and is not out of character with the existing area.

Biodiversity

19. No biodiversity net gain assessment has been submitted with the appeal and the Council raise concern that without this being completed, there is no certainty that the proposal would be capable of providing a net gain.
20. However, the existing landscaping to the appeal site is limited and, with only the side section of hedgerow proposed to be removed, the rear section replaced with a mixed hawthorn hedgerow and the mature tree retained, the proposal's impacts on existing ecological value would be modest. Furthermore, the Council's Ecology Officer did not raise a major concern regarding biodiversity and in the Officer Report it was acknowledged that the existing ecological value of the site was low.
21. Notwithstanding the above, the proposal's grassed gardens would provide some biodiversity enhancement and the appellant has confirmed a willingness, secured through an appropriately worded planning condition, to add to the proposed landscaping to comply with local and national policy biodiversity requirements. The Council provide little evidence to show that biodiversity net gain could not be achieved on the site or that this matter could not be dealt with by way of a condition.
22. Consequently, with a suitably worded condition imposed, appropriate biodiversity net gain would be delivered by the proposed development. It would accordingly not conflict with Policy ENV1 of the Local Plan, Policies SP15 and SP18 of the Core Strategy and Section 15 of the Framework which seek, amongst other matters, new development conserves or enhances biodiversity.

Other Matters

23. The submitted UU aims to secure a financial contribution towards meeting the need for the provision of recreational open space. The contribution is in accordance with the standard charges set out in the Selby District Local Development Framework Adopted Developer Contributions Supplementary Planning Document March 2007 (SPD) and the Council has justified the need for it. I consider that the measure in the UU is necessary, related directly to the development and fairly related in scale and kind. As such it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
24. However, I have some concerns about the document itself, its execution and whether the Council could rely on it to secure the contribution. For example, it is not detailed as a UU; it is not dated; background Part C is not complete, and a section for authorised signatory by North Yorkshire Councils is incorrectly included.
25. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties. Nonetheless, as it stands, I am not satisfied that the submitted UU would make adequate provision for the recreational open space to meet the additional need arising from the development in accordance with the development plan and the SPD.
26. I have had regard to the representations in support of the proposed development in terms of utilising brownfield land; being an infill site; providing

needed homes and improving the area. However, as detailed in my decision, these factors have not led me to a different conclusion.

Planning Balance and Conclusion

27. The appellant considers that the proposed draft reforms to the Framework would further support the proposal, given the increased emphasis to housebuilding and use of brownfield land, and the aim to promote an uplift in density in urban areas. The Council considers the draft reforms do not alter its position in regard to the appeal. While I appreciate the points raised by the appellant, the draft reforms still require development to represent appropriate and well-designed buildings and places. As such, and on the basis that assessment of the draft reforms are still ongoing, I only afford the draft reforms limited weight.
28. The proposed development would utilise brownfield land, add and contribute to the local housing mix in the area and could provide biodiversity net gain. However, these would not outweigh the significant harm that the proposed development would have on character and appearance of the surrounding area and the living conditions of the future occupants of Plots 2 and 3 in regard to overbearing.
29. Consequently, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR