



Appeal Decision

Site visit made on 9 December 2024

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2025

Appeal Ref: APP/U2750/W/24/3352874

Land at Ancoats, Piercy End, Kirkbymoorside, YO62 6DF

- 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 M Strickland and N Jones against the decision of North Yorkshire Council.
 - The application Ref is 23/00273/FUL.
 - The development proposed is the erection of 1 no. dwelling with associated parking, landscape and amenity.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (Framework) has been published during the course of the appeal. The main parties were given the opportunity to comment and I have considered the revised Framework in my decision.

Main Issues

3. The main issues are the effect on (i) the setting of the Kirkbymoorside Conservation Area; (ii) the living conditions of the occupiers of the neighbouring residential properties on Petch Garth by way of visual impact and outlook; and (iii) the living conditions of the occupiers of Ancoats by way of noise and disturbance arising from vehicular movements.

Reasons

Conservation Area

4. The appeal site comprises a rectilinear parcel of land which lies to the rear of properties on Piercy End. It is not currently in use, save for a large timber shed. The rest of this area is gravelled with an access path. The site also includes an access to the side of a residential property known as Ancoats, which then joins onto Piercy End.
5. The site abuts the boundary with the conservation area along part of its own boundary with a neighbouring property to the front, the attractive small stone built St Chad's Church to the north and the access point onto Piercy End. With the conservation area boundary found on 2 sides, the site lies within its setting. Virtually all of the conservation area lies to the north and its significance is partially derived from frontage style development positioned on burgage plots that are located in the historic core of this market town. There

are however some examples of buildings to the rear. To the south of the conservation area, development is of a more mixed quality and modern in nature, most obviously related to the route of the A170.

6. The palette of materials also contributes to the significance of the conservation area. These primarily consist of stone with pantiles, with some red brick and slate. The materials are no more obviously varied than this and so the wide range proposed for the dwelling, including the use of off-white render, zinc cladding, boarding and expanses of glazing would not accord with this aspect of the significance. There would be some synergy with the roof material of the church, but this does not adequately overcome that the use of this broad range of materials would not be in keeping.
7. The use of the uncharacteristic materials would also be reflected in what is a fairly complex form for a single dwelling. The design is said to be based on a central hub, with all other elements as subservient. This results in a projecting 2 storey gable, large flat roofed single storey element, differing ridge heights on the roof lines and a 2 storey flat roof tower feature. As a consequence, there is a complexity to the roof and overall external form of the proposed dwelling which is in contrast to the considerably simpler forms of individual buildings within the conservation area, which present generally plainer elevations and roof forms. It would not thus also sustain the significance in this regard.
8. The consideration of the effect on the setting of a designated heritage asset also extends beyond simply a visual relationship, even though direct visibility of the proposal from public vantage points would be largely limited to the churchyard. There is clearly a historical relationship with the site's proximity to the boundary and the buildings within it, and this forms an important aspect of its contribution. Whether or not other parts of the conservation area have greater historical value belies the strong protection that is warranted because the site lies close to and within the setting. Similarly, the quality and styles of buildings outside of the conservation area has a limited bearing in considering the effect of the proposal on this asset itself.
9. With the parameters of the site, the scale of the proposed dwelling would not be harmful and nor would it appear unduly cramped, physically or visually. There would be adequate spacing to the north and south within the site and while this would be more limited to the sides, this reflects the built up nature of the location. Considerations over contemporary and traditional design do not take my deliberations much further as this depends on how the particular design responds to the significance of the conservation area. For the reasons that I have set out, this does not favour the proposal due to its form, design and materials.
10. The related reason for refusal refers to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Strictly speaking, this does not apply because section 72 does not afford protection to setting. Nevertheless, a high level of protection is still afforded through the development plan and national planning policy. In these terms, it would not conserve or enhance the conservation area.
11. I conclude that the proposal would have an unacceptable effect on the setting of the Kirkbymoorside Conservation Area. As such, it would not comply with Policies SP12 and SP16 of the Ryedale Local Plan Strategy (2013) (Local Plan)

where they concern protecting historic assets; safeguarding elements of the historic character of market towns; conserving and where appropriate enhancing designated assets and their settings; reinforcing local distinctiveness; and, that detailed design of new development should respect the context provided by its surroundings.

12. The proposal would also not comply with paragraph 210 of the Framework which sets out the desirability of new development making a positive contribution to local character and distinctiveness, amongst other matters. For the purposes of the Framework and Policy SP12, less than substantial harm would arise.

Living Conditions – Petch Garth

13. To the rear of the site are a number of residential properties on Petch Garth. The boundary is largely enclosed by a high close boarded fence. These neighbouring properties angle away from the shared boundary. The area in between their rear elevations and the boundary is enclosed rear garden space.
14. Where the scale of the proposed dwelling would be close to this boundary, the neighbouring house to its side on Petch Garth is well set back. The related reason for refusal cites a separation distance from what would be the side of the proposed dwelling of some 13 metres. It would not therefore be in reasonable proximity. Due to the positioning of this neighbouring house, its rear elevation windows would be at an angle to the proposed dwelling and largely face past it. The garden would clearly be closer, but the proposed dwelling would be viewed beyond the furthest point of the garden and it would be slightly set back from the boundary.
15. Nor would there be unacceptable effects on the other closest dwellings on Petch Garth, with their resultant relationship to the proposed dwelling. Regardless of whether their curtilages are modest, the site is in a location which is on the edge of a town centre and the separation distances would be fairly generous within this built up context. Hence, the relationship would not lead to an unacceptable sense of being overbearing on any property.
16. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of the neighbouring residential properties on Petch Garth by way of visual impact and outlook. Hence, it would comply with Policy SP20 of the Local Plan where it states that new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings, including an overbearing presence. It would also comply with the Framework where it concerns a high standard of amenity for existing and future users.

Living Conditions - Ancoats

17. Ancoats is a dormer bungalow-type property. The side elevation that would face the access to the proposed dwelling contains a small window, together with the side of a front canopy arrangement. On the rear elevation nearest the access, there appears to be a habitable room window. Enclosure between the rear garden of Ancoats and the site is limited to occasional shrubs, and so this boundary is currently fairly open. Parking for Ancoats lies to the front area of this property.

18. The level of noise and disturbance arising from vehicular movements would likely be modest as the comings and goings associated with one proposed dwelling would themselves be of a limited nature. While the movements would be close to the side of Ancoats as the gap is fairly narrow, it would thus not constitute a significant adverse effect.
19. Openings are also limited on the side elevation of Ancoats and there would be some expectation of boundary enclosure that would separate the rear garden and the nearest rear elevation window from the proposed dwelling and this part of the access. If I had been minded to allow the appeal, this could have been ably addressed through the imposition of a planning condition.
20. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of Ancoats by way of noise and disturbance arising from vehicular movements. It would comply with Policy SP20 where it protects the amenity of the occupants of neighbouring land, including from noise.

Other Matters

21. As regards the public benefits that are to be considered, the proposal would provide for housing and a self-build dwelling which attracts support from the Framework, and it would provide a home for a local family, based on the submissions. It is not in dispute there would be support through Policies SP1 and 2 of the Local Plan as it would constitute the redevelopment of previously developed land and be located within the development limits. It would also add to housing supply and choice in Kirkbymoorside. Sustainability measures would be incorporated, and there would be some economic benefits in its construction and occupation. It attracts support in broad terms from the most recent Kings Speech in housing and economic terms.
22. Matters in relation to its overall design, the National Design Code and whether it would result in an environmental improvement to the site are not though benefits. This is due to the harm that I have found to a designated heritage asset. While I note that the appellants have sought to make compromises and have their own design objectives, I am not persuaded that a design could not come forward that both protects the significance of the conservation area and provides reasonable living conditions for its future occupiers. That the proposal would not have unacceptable effects on the living conditions of neighbouring properties is simply a neutral matter.
23. In making a balanced judgment, I am mindful under the Framework that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In taking these considerations together, the less than substantial harm to the designated heritage asset would not be outweighed by the public benefits of the proposal.
24. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

25. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. For these

reasons, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR