



Appeal Decision

Site visit made on 5 February 2025

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/U2750/W/24/3355457

Split Farthing Hall, Back Lane to Hall Garth, Bagby, North Yorkshire, YO7 2AF

- 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 David Kilduff against the decision of North Yorkshire Council.
 - The application Ref is ZB24/01220/FUL.
 - The development proposed is erection of single dwelling to replace a residential caravan.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single dwelling to replace a residential caravan at Split Farthing Hall, Back Lane to Hall Garth, Bagby, YO7 2AF in accordance with the terms of the application, Ref ZB24/01220/FUL and the plans submitted with it, subject to the conditions in Appendix 1.

Preliminary Matters

2. Applications for planning permission are to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. I have considered the development plan as a whole, including the policies of relevance to the main issues in the Hambleton Local Plan (Local Plan).
3. The National Planning Policy Framework (the Framework) is a material consideration. As the proposal affects a Listed Building I have had special regard to the relevant duties in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
4. The description of development has been amended to remove reference to another planning permission for clarity as that permission has not, as yet, been implemented.

Main Issues

5. The main issues are:
 - Whether the proposal would be acceptably located when regard is paid to planning policy guiding the location of new housing.
 - Whether there are material considerations indicating that a decision should be taken other than in accordance with the development plan.

Reasons

Location

6. The site's location away from the existing built form of Bagby puts it in the countryside for the purposes of Policy S5 (Local Plan). In these circumstances, development will only be supported under the policy where it accords with national planning policy or other policies of the development plan and would not harm the character, appearance, and environmental qualities of the area in which it is located.
7. I agree with the Council's assessment of the effects in terms of design and appearance on the character of the surrounding countryside in paragraphs 8.15-8.17 of their officer report.
8. No definition of 'environmental qualities' has been drawn to my attention. However, I note the Council's assessment in relation to matters including neighbour impact, highway safety, and biodiversity and do not take issue with their conclusion that the proposal is acceptable in these regards. All things considered, the proposal would not harm the character, appearance, and environmental qualities of the area. It would therefore accord with the second limb of this part of Policy S5.
9. In relation to according with national planning policy or other policies of the development plan, Policies S5 and HG4 (Local Plan) addresses replacement buildings/dwellings. In principle, a caravan falls outside these policies. In this regard I agree with the Inspector's general approach to policy interpretation in the submitted appeal decision¹. In circumstances where I see no other specific support for the proposal, in land use terms the proposal would not accord with Policy S5 (Local Plan) and, in turn, Policy S1 in relation to securing the provision of suitable housing.
10. In the absence of other development plan policy supporting new housing in this location, the proposal would not be acceptably located when regard is paid to planning policy guiding the location of new housing. There is conflict with the development plan, including Policies S1 and S5 which guides the location of new housing in the area in accordance with a plan led approach.

Material considerations

11. The site benefits from an extant planning permission for the siting of a caravan in an alternative location² within the grounds of Split Farthing Hall. That the permission could be implemented is not a matter in dispute. As such, the existence of the permission is a legitimate fallback.
12. In heritage terms, Split Farthing Hall is a Grade II Listed circa 18th Century house that has been subject to alteration. It's significance, of relevance to this case, is it's standing and relationship with the wider grounds, the countryside, and the village of Bagby (including the Grade II Listed St Mary's Church). It's imposing and isolated position on high ground contributes to its significance.

¹ APP/U2750/W/23/3328329

² ZB23/01758/FUL

13. The existing caravan detracts from the listed building due to its prominent location as seen on the main approach to the building. The replacement caravan would be a better location in heritage terms, more discreet and less likely to visually compete with the listed building in key views along what is now the main approach to the building.
14. However, both locations are within the setting of the Listed Building and both developments involve caravans that are, by definition, temporary in appearance and jar with the timeless and commanding appearance of the Listed Building. It is relevant that the appearance of caravans is difficult to control in planning terms, as illustrated by the fact that the replacement caravan would be somewhat larger than the existing. As such, even with the replacement caravan permission implemented, the Listed Building is still vulnerable to detracting.
15. The proposal would secure a structure of more permanent appearance and congruent design that could be more effectively controlled through planning conditions, including securing its size, materials, landscaping, and potential for future alteration. To my mind, this is a better outcome than implementation of the fallback in terms of securing the conservation of the Listed Building.
16. The proposal falls short of securing the optimum viable use or appropriate enabling development of a heritage asset. This prevents the scheme attracting development plan support under Policy HG5 (Local Plan). Nevertheless, it does not limit the ability to consider heritage benefits as other material considerations to be weighed against any development plan conflict.

Planning balance

17. The proposal would not be acceptably located when regard is paid to planning policy guiding the location of new housing. There is conflict with the development plan that amounts to conflict with the plan as a whole.
18. There is a legitimate fallback in terms of the replacement caravan. Even if that were to be implemented, the Listed Building would be vulnerable to detracting development within its setting. The proposal would secure a structure of permanent and congruent appearance that would be more sympathetic to the Listed Building, with greater ability to control using planning conditions. In this respect, the proposal would secure the conservation of the Listed Building. This matter attracts great weight.
19. As discussed above, when assessed against Policy S5 the proposal would not harm the character, appearance, and environmental qualities of the area. Its lack of acceptability in land use terms primarily turns on a caravan not being regarded as the replacement of an existing building. I acknowledge the importance of a plan led approach to directing the location of development. However, as a matter of fact and degree, the location is not isolated in the sense expressed in Paragraph 84 (Framework). While I acknowledge the locational conflict with the plan, the degree of conflict needs to be weighed against the improved outcome in heritage terms.
20. For these reasons, there are material considerations indicating to me that a decision should be taken other than in accordance with the development plan.

Other matters

21. I have paid regard to comments from other interested parties. Where related to the main issues, comments have been considered as part of my reasoning above. Other comments do not affect my view on the main issues.
22. To specifically address comments from the Parish Council, approval is justified in this case in light of material considerations discussed above. In these circumstances a condition restricting the occupancy of the dwelling is not justified. Nor is the potential availability of other buildings for accommodation a material consideration.

Conditions

23. The need for conditions has been assessed in line with Paragraph 57 (Framework). I have paid regard to suggested conditions put forward by parties, making any necessary adjustments for clarity and/or effectiveness.
24. I will refer to the numbering set out in Appendix 1. Conditions [1] and [2] are necessary for certainty, [3], [5], [6] in the interests of achieving a satisfactory standard of appearance, landscaping and preserving the Listed Building, [4] to ensure satisfactory arrangements for drainage, [8] to put in place tree protection methods during construction, [9] and [10] to secure the removal of existing caravan and restoration of the land as this matter was a material consideration in this case. [7] is needed to control future development at the site. Exceptional justification for [7] exists in light of the heritage issues and material considerations discussed above.

Appeal outcome

25. For the reasons set out, and paying regard to all other matters raised, the appeal is allowed.

D R McCreery

INSPECTOR

Appendix 1 – conditions (Page 1 of 2)

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered HDC/01346/11 and HDC/1346/12 received by the Local Planning Authority on 17 June 2024; unless otherwise approved in writing by the Local Planning Authority.
3. No above ground construction work shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development and hard landscaping (including parking area) have been agreed in writing with the Local Planning Authority (with samples available for inspection on site where requested by the Local Planning Authority). The development shall be constructed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
4. The construction of the dwelling above ground level shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and shall be maintained as such unless otherwise agreed in writing by the Local Planning Authority.
5. No external lighting shall be installed other than in accordance with a scheme that has previously been approved in writing by the Local Planning Authority.
6. No above ground construction shall take place until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be retained as such unless otherwise agreed in writing the Local Planning Authority.
7. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement, improvement or other alteration shall be carried out to the dwelling or building nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.
8. The construction of the development hereby approved shall not be commenced until the tree protection methods detailed on drawing no. BA23140TPP rev. P received by North Yorkshire Council on 17 June 2024 have been implemented unless and alternative is agreed in writing the Local Planning Authority. The agreed tree protection methods must remain in place for the duration of the construction.
9. Prior to construction of above ground works associated with the dwelling hereby approved, the existing residential caravan identified in reference 22/01604/CLE, and all associated structures, shall be permanently removed from the site and shall not be relocated at any time on any part of the site. For the purposes of this condition the site is considered to be the area enclosed by the red and blue lines shown on location plan received by North Yorkshire Council on 17 June 2024.

Appendix 1 - Conditions (Page 2 of 2)

10. Prior to construction of above ground works associated with the dwelling hereby approved, the area of the site currently occupied by the caravan identified in condition 9 shall be landscaped in accordance with details that shall be submitted to and approved by the Local Planning Authority and shall be retained and maintained as such unless otherwise agreed with the Local Planning Authority.