
Appeal Decision

Site visit made on 25 November 2025

by **F P Tinsley MA (Hons) MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/U2750/W/25/3374048

64-68 Ousegate, Selby , North Yorkshire , YO8 4NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Mitchell against the decision of North Yorkshire Council.
 - The application reference is Ref: ZG2024/0944/FUL
 - The development is 'Proposed residential development of land to the rear of 64-68 Ousegate Selby to provide a terrace of four dwellings and associated gardens.'
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Decision

1. The appeal is dismissed

Preliminary Matters

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. However, the description has been amended in subsequent appeal documents to refer to 64-68 Ousegate rather than Nos 64-66, and I consider that the amended numbering reflects the circumstances of the appeal proposal. Accordingly, I have used the description given on the original application albeit with the numbering amended.

Background and Main Issues

3. The Council's first reason for refusal refers to the effect of the proposal on the living conditions of future and adjacent residents due to a number of issues. The issues of overshadowing and loss of light is not referred to in this reason for refusal, but they have been raised in the Council's Statement of Case. The appellant has addressed these issues in their Final Comments, and I have had regard to them accordingly.
4. The Council's second reason for refusal refers to the lack of a Sequential Test in respect of flood risk. However, further evidence on this issue has been submitted with the appeal, and the Council considers that this is sufficient to pass the Sequential Test
5. On that basis, the main issues in this case are:
 - The effect of the proposed development on the living conditions of occupiers of both the proposed dwellings and surrounding properties, with particular regard to

privacy, light and outlook;

- The effect on the living conditions of future occupiers of the proposed development with regard to the provision of outdoor amenity space; and
- The effect of the proposed development on a protected tree located on the edge of the site.

Reasons

Living Conditions – Privacy, Light and Outlook

6. The location and positioning of the proposed development would mean that windows of habitable rooms in the eastern elevation of the terrace would be directly opposite and facing several existing windows in the building at 70 Ousegate. The proposed dwellings would be situated close to the western elevation of that building, resulting in harmful direct overlooking and a significant impact on privacy. Planning permission was previously granted under Ref: 2022/0330/FUL to extend No 70 to the south to provide residential accommodation, which, if implemented, would increase the level of overlooking.
7. The Council notes that the separation distance between habitable rooms falls significantly short of the 21-metre window-to-window standard typically required to safeguard privacy. However, this is not a fixed minimum, and in urban locations such as this, a reduced separation distance may be appropriate and other measures to protect privacy can be employed. Nevertheless, the relationship between the existing building at No. 70 and the proposed development, as well as the extant permission at No 70, would result in a loss of privacy for residents of both schemes due to overlooking.
8. The appellant has suggested that sensitive design could mitigate overlooking. However, the specific measures intended to reduce the potential for overlooking and the corresponding loss of privacy have not been clearly defined. Based on the evidence before me, the orientation of the buildings, facing each other directly, and their proximity create a clear and immediate conflict.
9. The relationship with the buildings to the north fronting Ousegate would be acceptable. There is limited potential for overlooking and loss of privacy, and the relatively modest scale of the proposed terrace's gable means there would be no harmful sense of enclosure or visual dominance. I reach the same conclusion regarding the properties to the south in Thornden Building. The location of the proposal to the north of these properties, the roof profile and limited gable of the proposal all remove potential for harm in terms of enclosure or visual dominance. Had I been minded to allow the appeal, the potential for overlooking from the secondary window at ground floor level could have been addressed by means of condition.
10. Given the urban location, I also consider that the relationship between the proposed development and the building at No. 70 would not result in an unacceptable impact on living conditions due to overshadowing or loss of outlook. The dwellings would retain a reasonable level of outlook and would not experience unacceptable overshadowing.
11. Notwithstanding my conclusions in respect of outlook and light, I conclude that the proposal would lead to significant harm to the living conditions of existing and future

residents due to overlooking resulting in a loss of privacy as identified above. The proposal therefore fails to comply with Policy ENV1(1) of the Selby District Local Plan (2005) (the Local Plan) and Policy SP19 of the Selby District Core Strategy Local Plan (2013) (The Core Strategy), which require development to protect residential amenity.

12. The Council has also referred to Policy SP18 of the Core Strategy. However, this does not relate to the issue of living conditions and quality of life other than in respect of historic assets. Nevertheless, this does not negate the identified conflicts with other policies of the development plan.

Living Conditions - Outdoor amenity space

13. The proposed development would provide garden areas adjacent to the eastern elevation of the terrace and a secondary, smaller yard area adjacent to the western elevation. While these spaces are modest in scale and would be subject to overlooking, particularly the larger garden areas to the east, the garden areas would offer usable space, each measuring over 50% of the footprint of the associated dwelling. They would provide opportunities for play for younger children, benefit from sunlight at certain times of the day subject to seasonal variations and allow for secure drying of clothes and similar domestic activities.
14. Given the constraints of the urban location of the proposed development, the amenity space provided would be acceptable in offering usable outdoor areas for residents. In such locations, it is inevitable that these spaces will often be overlooked from surrounding properties; this in itself is not necessarily harmful to their usability.
15. For these reasons, I conclude that the proposal would provide suitable outdoor amenity for residents of the proposal. . The proposal would therefore not conflict with Local Plan Policy ENV1(1) and Core Strategy Policy SP4(c), which require development to protect local amenity and provide a satisfactory living environment.

Impact on Trees

16. The appeal site includes a Sycamore tree subject to protection due to its location within Selby Town Conservation Area (CA), which is proposed to be retained as part of the development.
17. The appellant has drawn comparisons between the proposed development and the recently approved extension at No. 70, highlighting an alleged inconsistency in deeming the permitted scheme acceptable in terms of its potential impact on the protected tree. However, there are material differences between the two schemes which make direct comparison less relevant. While the majority of the Root Protection Area (RPA) within the appeal site would accommodate garden space and currently consists predominantly of hardstanding and disturbed ground, the building envelope of the southernmost dwelling would be located closer to the RPA than was the case in the permitted extension to No 70. This closer relationship increases the likelihood of harm to tree roots from construction activities such as the laying of foundations and makes physical damage to the tree more probable.
18. The locational relationship between the tree and the proposed dwellings is potentially more problematic than in the permitted extension to No 70. There is greater potential for the tree to overshadow the proposed dwellings, particularly the

southernmost unit, whose garden area would be positioned almost entirely beneath the tree canopy. This is likely to result in issues associated with leaf litter and potential disruption to paved patio areas due to root activity. A number of windows of habitable rooms on the front eastern elevation of the dwelling would also be affected by the tree due to overshadowing and loss of light. I am satisfied that these impacts could lead to future pressure for intervention affecting the tree which would have been less likely in the context of the permitted scheme at No 70.

19. Whilst future residents would be aware of the position of the tree, the implications of living next to it could not be fully appreciated until occupation. I consider that this would raise undue pressure in the future for works to the tree canopy or the potential removal of the tree. Similarly, concerns about root damage would also be likely to increase pressure for the removal of the tree. Although works to the protected tree would be subject to consent from the Council, given the potential effect on the living conditions of residents and damage to buildings such works would be difficult to resist. In turn this may lead to significant works to the tree, with subsequent harm to the contribution it makes to the character and appearance of the area.
20. Coupled with this, while an Arboricultural Impact Assessment was provided with the planning application, the Council's Tree Officer has concluded that, regardless of the proposed interventions, the impacts associated with the development would be harmful. While I note the appellants comments that incursions into RPAs does occur elsewhere and mitigation measures are proposed, I have not been presented with compelling evidence to challenge the Tree Officer's conclusions in this regard.
21. For these reasons, I conclude that the proposal would conflict with ENV 1 of the Local Plan and Policy SP18 and SP 19 of the Core Strategy which seek to protect features important to the character of the area and seek to protect the natural environment. It would also conflict with the National Planning Policy Framework (the Framework) which seek to achieve well designed places and conserve and enhance the natural environment.

Other Considerations

22. The appeal site lies within the Selby Town Conservation Area (CA), where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the CA. The area is characterised by traditional buildings associated with the historic development of the town, predominantly brick-built and typical of their respective periods of construction. The appeal site is currently in a condition that detracts from the character and appearance of the CA.
23. The proposed development, through its scale and the use of sympathetic materials, would sit comfortably within its surroundings. While the proposed design would be largely neutral in its architectural contribution, the scheme would result in a modest improvement to the site's appearance. Consequently, the proposal would have a moderate positive effect on the CA and would enhance its character and appearance to a moderate degree. For the same reasons, the proposal would also improve the character and appearance of the townscape in general to a moderate degree.
24. The application site is also within the setting of several listed buildings: 64 Ousegate, 66–68 Ousegate, The Royal Oak Public House, 16–28 New Street, 12 New Street, and the premises of Messrs Dowler Williamson Limited. All are Grade

It listed and lie within 100 metres of the application site. These buildings date from the eighteenth and nineteenth centuries and are significant as examples of development during Selby's historic growth, reflecting its commercial role dating back to the medieval period.

25. My observations on site were that the proposed development would have a neutral impact on the listed buildings and their settings, as well as on the features of special architectural or historic interest which they possess. This conclusion is broadly consistent with the comments of the Conservation Officer.

Planning Balance and Conclusions

26. The appellant sets out that Council is currently unable to demonstrate a five-year housing land supply (5YHLS) and refers to a 2.6-year supply. This is not disputed by the Council in its response to the Grounds of Appeal. I have therefore determined the appeal on the basis that the Council cannot demonstrate a 5YHLS and that the shortfall is significant.
27. Under paragraph 11(d)(ii) of the Framework, where a Council cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer), the presumption in favour of sustainable development is triggered. In the context of this appeal, this means relevant policies for the supply of housing are out of date, and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places, and providing affordable homes, individually or in combination.
28. Notwithstanding my conclusions in respect of outdoor amenity space, the proposed development would result in overlooking and a loss of privacy for residents of both the proposed development and the recently permitted scheme at No. 70. I have also found that the proposal would cause harm to a protected tree, and I attach significant weight to this issue. Taken together I give these harms substantial weight.
29. I have also had regard to the benefits of the proposal. I have found that the development would provide an adequate level of private amenity space for future occupiers and would be safe in terms of flood risk, without increasing risk elsewhere. However, a lack of harm is not a benefit, and I attach neutral weight to these considerations. The proposal would have a moderate positive effect on the character and appearance of the CA and the townscape, and would have a neutral impact on the setting of nearby listed buildings, and I attach corresponding moderate and neutral weight to these matters. The proposal would also have moderate benefit in respect of the character and appearance of the townscape in general.
30. There is a significant shortfall in the supply of suitable housing sites within the area, and I have had regard to the Government's stated ambition to significantly boost the supply of housing, I attach significant weight to this consideration. However, the number of dwellings to be delivered would be limited at four units, and for this reason I attach modest weight to this consideration.

31. The scheme would deliver short-term economic benefits during construction and longer-term benefits following occupation, as well as a 10% biodiversity net gain via credits from a third-party habitat bank. These are further, albeit very limited, benefits of the proposal due to its scale. The proposal would be in a sustainable location, but due to the harm I have identified it would not be an effective use of land and would not secure a well-designed place. The proposal would also not provide affordable homes
32. Taken together, the substantial weight given to the harms I have identified would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.
33. Notwithstanding my conclusions in respect of outdoor amenity space and benefits arising from the proposal, I have found that the proposed development would result in overlooking and a loss of privacy for residents of both the proposed development and the recently permitted scheme at No. 70 and would therefore lead to significant harm to the living conditions of those residents. I have also found that the proposal would cause harm to a protected tree. The proposal would therefore conflict with the development plan when read as a whole in respect of protecting residential amenity, achieving high-quality design, and protecting the natural and built environment.
34. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

F P Tinsley
INSPECTOR