

North Lincolnshire Council

Town and Country Planning Act 1990

APPEAL BY JOHN Wainwright AGAINST THE REFUSAL OF A PLANNING APPLICATION SEEKING

Planning permission to erect a new detached dwelling with associated landscaping following partial demolition of existing garage

AT

land off High Street, Barrow Upon Humber, DN19 7AA

April 2021

Local Planning Authority Reference: PA/2020/1257

Planning Inspectorate Reference: APP/Y2003/W/21/3267979

1 Introduction

1.1 The appeal relates to the refusal of planning application PA/2020/1257 FOR:

Planning permission to erect a new detached dwelling with associated landscaping following partial demolition of existing garage

1.2 The application was received on the 6 August 2020 and determined on 1 October 2020. The application was refused on the following grounds:

The proposed dwelling, by virtue of its siting and scale would adversely affect the character and appearance of the Barrow Upon Humber conservation area. This part of the conservation area has a distinct character of traditional cottages and dwellings located on the High Street frontage with large, deep gardens to the rear. In addition, there is a clear separation between the dwellings located on the High Street frontage and the countryside beyond the deep rear gardens. It is considered that the introduction of a dwelling on this garden land would result in a form of backland development that is out of keeping with the character and appearance of the conservation area and which would erode the open character that exists between the historic core of Barrow Upon Humber and the countryside. Therefore, the proposal would not preserve or enhance the character or appearance of the conservation area and is contrary to policies HE2 of the North Lincolnshire Local Plan and CS6 of the adopted Core Strategy.

2 The Site

- 2.1 The site is located within the of Barrow-Upon-Humber which is also a designated Conservation Area. The site is situated on the northern side of High Street where there is an existing vehicular access providing access to group of garages located to the rear of Birch Cottage and Birchwood House. The predominant character of the area is residential forming a strong enclosure to High Street. The site is within a SFRA flood zone 1 (low) and does not relate to any Listed buildings. There is a designed TPO Ash Tree adjacent to the site and along the north boundary. The site benefits from extensive planning history which is detailed below.

3.0 Planning History

3.1 Reference: PA/2008/0927

Description: Planning permission to erect a detached dwelling and detached domestic garage

Decision: Refused

Decision Date: 07/08/2008

Reference: PA/2008/1277

Description: Planning permission to erect a detached house and detached domestic garage

Decision: Refused

Decision Date: 22/10/2008

Reference: PA/2009/0887

Description: Planning permission to erect a detached house and detached domestic garage including demolition of existing garage

Decision: Refused

Decision Date: 01/09/2009

Reference: PA/2010/0452

Description: Planning permission to erect a detached house and detached domestic garage including demolition of existing garage

Decision: Appeal dismissed

Decision Date: 15/12/2010

Reference: PA/2018/1238

Description: Planning permission to erect a detached chalet bungalow and detached garage

Decision: Appeal dismissed

Decision Date: 11/09/2019

3.2 The appeal decision letters from the 2010 and the 2018 application/ appeals are attached in Appendix A.

4.0 Statement of Case

- 4.1 The Local Planning Authority intend to rely upon the Officers Delegated Report as the supporting statement for the reason of refusal issued. In addition the Inspectors attention is drawn to the two previous appeal decisions for development of this type in this location.
- 4.2 At Paragraphs 8 and 9 of the most recent appeal (decision dated September 2019) the Inspector finds that the open aspect of the site makes a positive contribution to the setting of the Conservation Area and that the proposal considered would fail to preserve that element of it. This appeal proposal would also impact upon this noted positive contribution to the setting of the Conservation Area and would therefore also result in harm to the heritage asset. There are no new benefits put forward as being associated with the proposal. As such the proposal, in resulting in a loss of openness, fails to preserve or enhance the identified character and appearance of the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area likewise policies HE2 of the North Lincolnshire Local Plan and CS6 of the adopted Core Strategy seek to protect the character of the area.
- 4.3 It is considered that there has been no material change to planning policy at either a national or a local level and that the issue for the resistance to the previous submissions is not addressed within the proposal.

5.0 Conclusion

5.1 The council ask the inspector to use the delegated report, and the previous appeal dismissals as the council's statement against the submitted appeal.

5.2 Notwithstanding the above case and the local authorities view that the appeal should be dismissed, should the Inspector be minded to allow the appeal and grant planning permission it is requested that conditions in relation to the time limit, the approved plans, materials to be used and the provision of a obscured glass window be attached.

APPENDIX A – Appeal Decisions



Appeal Decision

Site visit made on 29 November 2010

by Robin Brooks BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2010

Appeal Ref: APP/Y2003/A/10/2136004

Land to the rear of Birchwood Cottage, High Street, Barrow-upon-Humber DN19 7AA

- 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 Birchwood Developments (Lincs) Ltd against the decision of North Lincolnshire Council.
 - The application Ref PA/2010/0452, dated 25 April 2010, was refused by notice dated 30 June 2010.
 - The development proposed is erection of a detached house and garage.
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Decision

1. I dismiss the appeal.

Procedural Matters

2. Prior to my site visit the Council had advised that they would not send a representative. With their agreement, and that of the Appellant's representative and objectors present, I carried out the visit unaccompanied.

Policy Context and Main Issues

3. A number of policies from the North Lincolnshire Local Plan are relevant. Under Policies ST2 and H1 Barrow-upon-Humber is deemed a medium growth settlement that can accommodate additional development compatible with its scale, character, location, facilities and environmental quality. Policy H5 takes this further, saying that new housing will be permitted within such settlements if it is infill development and subject to meeting a number of criteria, including that it is in keeping with the character of its surroundings, and of the settlement as a whole; would conserve and retain features of particular conservation importance; and would not cause loss of amenity to existing dwellings. Policy H7 permits backland and tandem development providing it would not adversely affect existing amenity through overlooking and loss of privacy or movement of vehicles, nor harm the quality and character of the surrounding area. Policy DS1 expects a high standard of design in all developments and sets out a number of criteria that will apply which essentially echo those in the policies already referred to.
4. The site is within the Barrow-upon-Humber Conservation Area where, under Local Plan Policy HE2, new development is expected to preserve or enhance the character or appearance of the area. In particular, it should be compatible with the area in design, layout and access; harmonise with adjoining buildings and

preserve or enhance the street scene; and avoid loss of open spaces and natural features important to the character of the Conservation Area.

5. The Council do not challenge the principle of development in Barrow-upon-Humber on the scale proposed, in terms of Local Plan Policies ST2 and H1, and I see no reason to disagree. Accordingly, against the background of the other policies referred to, the determining issues in the appeal are the impacts that the proposal would have upon:
 - (i) the character and appearance of the Conservation Area; and
 - (ii) the living conditions of neighbours in terms of possible noise and disturbance, overlooking and loss of privacy.

Reasons

The Conservation Area

6. The character of the Conservation Area on High Street derives largely from the way in which the attractive buildings of the 17th-19th centuries enclose the street, and from the contrast between that sense of enclosure and the sizeable open garden plots to the rear. Although there are glimpses through to smaller domestic buildings to the rear, historically there has been no significant development in depth. The defining character is of a tight-knit, linear village street with largely hidden rear gardens that would once have backed onto the surrounding countryside and which now effectively separate the historic core of the village from more recent development.
7. The appeal proposal would significantly change this character by inserting a large house well to the rear of existing properties, occupying most of the width of an existing attractive garden and taking access from the High Street via a long drive. Whilst the existing garages on the site are not particularly distinguished in appearance, they are at least modest in scale and subservient to the frontage buildings in the street scene. By contrast, the proposed house, though partly screened by trees, would be visible from High Street and would appear both intrusive and incongruous. That adverse effect would be exacerbated by what is, in my opinion, the uninspired design of the proposal which shows little sense of place or affinity with the character of the surrounding area; and in which the front elevation is markedly horizontal in form, in uncomfortable contrast to the strong vertical emphasis to the front elevations of buildings on High Street.
8. In addition to this impact as seen from High Street, the proposed house would also involve the loss of at least half of an attractive enclosed garden, well planted with specimen trees. Though not publicly accessible, this is a space that seems to me important to the character of this part of the Conservation Area and that as such enjoys specific protection under Local Plan Policy HE2. I conclude under the first main issue that the proposal would neither preserve nor enhance the character or appearance of the Conservation Area and would thus conflict with the aims of Policy HE2 and the relevant provisions of the other Local Plan policies referred to.

Neighbours' Living Conditions

9. As the drive to the proposed house would be immediately alongside Burncroft and Birch Cottage any noise and activity on it would impinge directly upon the occupants of those two properties and, to a lesser extent, on those of

Birchwood House also. However, that access already serves the existing garages, a situation which must involve some potential disturbance already, at least so far as Burncroft is concerned; and the Appellant states that Birch Cottage was formerly a general store, a use which must have involved a good deal of coming and going around that property. The essential question therefore is whether in this context the traffic from one additional house would be unacceptably harmful to neighbours. On balance I consider that it would not, especially as Burncroft has a high wall to its front garden and the plans show that a 2m high close boarded fence would be provided to the rear garden of Birch Cottage. Whilst neighbours living at such close quarters would inevitably be conscious of passing vehicles, any noise and disturbance would in my judgement be within acceptable limits.

10. The houses to the north and west of the site stand well away from the mutual boundaries and have no windows that face the site at close quarters, nor would they be directly overlooked by any windows in the proposed house. Whilst there might be some overlooking of the garden to the property immediately to the west, I consider that this would be within acceptable limits. So too would any increase in noise and activity around the proposed house, especially given the size of neighbouring gardens and the distance to adjoining houses. Essentially the same considerations would apply to the rear of Burncroft. I conclude on the second main issue that the proposal would not unacceptably harm the living conditions of neighbours in terms of noise and disturbance, overlooking and loss of privacy, and it would thus not conflict in these respects with Local Plan Policies H5, H7 and DS1.

Other Matters and Conclusions

11. I have taken account of all the other matters raised in the representations, including the possible impact of development upon trees within and adjoining the site; and examples of backland development locally which have been referred to. Although the Council do not cite impact on trees in their reasons for refusal, and the trees that would be removed are generally small specimens, I believe that their removal would be regrettable, given the contribution they make to the attractiveness of the garden space within the Conservation Area.
12. Perhaps more importantly, a number of the trees intended to remain would be so close to the proposed house and drive that there would be a real risk of them being damaged during construction. In particular, both the crown and the roots of the large protected Ash in the grounds of Winterbourne House would be vulnerable; and the cautionary tone of the Arboricultural Report in respect of the Cherry (acknowledged to be important to screening of the house), and the very detailed nature of the protection measures proposed, together suggest a significant risk of damage. In the longer term too the proximity of the proposed house to the large Ash, and consequent potential problems such as overshadowing and leaf fall, could lead to pressure for its removal or severe reduction. In my view the proposal would directly or indirectly put at risk a number of trees that make a positive and significant contribution to the character of the Conservation Area.
13. Turning to instances of backland development elsewhere, these do not appear to me to have any close parallels with the appeal proposal. In particular, Conisburgh off High Street is evidently of some long standing and I have no information on the circumstances under which it was permitted; and the

bungalow adjacent to 8 Palmer Lane, permitted on appeal, would be outside the Conservation Area, albeit immediately adjacent to it. Neither has any direct bearing on this appeal, which I have determined on its own merits. .

14. Striking a balance between these various matters, my conclusion on the first main issue, impact on the Conservation Area, is a compelling one and outweighs my conclusion on the second issue, that the proposal would not unacceptably harm neighbours' living conditions. The adverse impact on trees, though not determinative in itself, adds some further weight to the balance against the proposal. Accordingly, and bearing in mind all other matters raised, for the reasons given above I conclude that the appeal should be dismissed.

Robin Brooks

INSPECTOR



Appeal Decision

Site visit made on 27 August 2019 by Andreea Spataru BA (Hons) MA MRTPI

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/Y2003/W/19/3229132

Birchwood House, High Street, Barrow Upon Humber DN19 7AA

- 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 Bob Johnson against the decision of the North Lincolnshire Council.
 - The application Ref PA/2018/1238, dated 22 June 2018, was refused by notice dated 23 January 2019.
 - The development proposed is erection of a detached chalet bungalow and detached garage including part demolition of existing garage".
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Barrow upon Humber Conservation Area.

Reasons for the Recommendation

4. Birchwood House is a terraced dwelling, located within a predominantly residential area, within the Conservation Area. There is a vehicular access to the side of Birch Cottage/Birchwood House that leads to a detached garage and a large garden area. This garden area is mostly screened by trees and vegetation to the side and rear, and by the garage to the front.
 5. The proposal seeks the construction of a detached chalet bungalow and a detached garage to the rear of the main dwelling, within the rear garden, with a vehicular access taken from High Street. Part of the existing detached garage would be demolished to facilitate access to the proposed development.
 6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
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7. The character of this part of the Conservation Area, along High Street, is largely defined by the close-knit dwellings which have a frontage onto the street and create a sense of enclosure to the street scene. The two/three storey dwellings have generally large, deep gardens to the rear, which insulate the historic core from later phases of development and provide an open, green setting to the buildings. Whilst there are some small outbuildings and a bungalow to the rear of the houses, a matter to which I will turn later, there has historically been little significant development at the rear of the frontage dwellings. Therefore, the pattern of development and the open space are features that make a significant positive contribution to the character and appearance of the Conservation Area.
8. The proposed bungalow and its detached garage would be located behind the frontage development and would occupy a significant proportion of the garden area, thus reducing the open space and disrupting the established pattern of development. I note that careful consideration has been given to the scale of development to ensure that the bungalow would be lesser in height and mass than the two storey or higher properties set immediately against High Street frontage. In that regard the appellant has had regard to comments made in a previous appeal decision¹. However, whilst I also recognise that public views of the bungalow would be limited, the proposal would fail to preserve elements of the Conservation Area that make a positive contribution to its significance.
9. My attention has been drawn to a relatively modern development comprising new and converted buildings at Papist Hall Mews although the layout and circumstances of these dwellings, does not appear to be directly comparable to the appeal proposal. The nearby bungalow, 'Conisburgh', has a similar relationship to the street to that of the appeal proposal. However, that building, which I understand was constructed before current policy guidelines, does not reflect the character of the area and is not necessarily a good example of development to follow. Whilst I acknowledge the presence of the outbuildings at the rear, they are generally small ancillary buildings, not directly comparable with the proposed development. A new dwelling in this location would have a considerably greater impact on the character and appearance of the area.
10. Whilst tall trees at the rear of the plot may help define the extent of the Conservation Area, the absence of significant development makes a positive contribution to the area. I acknowledge that the appellant would be willing to include additional planting by way of a condition. However, this would not negate the harm I have identified.
11. Therefore, the scheme before me would constitute a form of development detrimental to the character and appearance of the Conservation Area. In terms of the approach set out in the Framework, given that the proposal would affect only part of the Conservation Area harm to the significance of the heritage asset would be less than substantial. This is not the same as a less than substantial objection. In such cases, harm should be weighed against the public benefit of the proposal in accordance with paragraph 196 of the Framework.
12. The development would contribute to the supply of housing within the area. However, given the limited scale of the development the benefits of one

¹ Application ref: PA/2010/0452 & APP/Y2003/A/10/2136004

additional house would not outweigh the harm to the Conservation Area that I have identified.

13. For the above reasons, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area and as such would not meet the statutory requirements of the Act. Furthermore, the proposal would be contrary to Policy HE2 of the North Lincolnshire Local Plan and Policy CS6 of the Core Strategy, which collectively state that, amongst other matters, development should be appropriate to its context, and protect and enhance historic assets.

Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR