
OBJECTION TO PLANNING APPLICATION

relating to

Manor Cottage, Shaw Lane, Farnham,

Knarborough HG5 9JE

Planning Application Ref: ZC23/02895/FUL

Date: 28 September 2023

APPLICANT: Mr and Mrs Green.

APPLICATION: ZC23/02895/FUL.

DEVELOPMENT: Erection of self-build dwelling, landscaping and associated works.

PROPERTY: Manor Cottage, Shaw Lane, Farnham, Knaresborough HG5 9JE.

LPA: North Yorkshire Council.

OBJECTOR: Mr and Mrs Parkin.

1. INTRODUCTION

- 1.1 This objection is submitted on behalf of the Objector in relation to the proposed Development by the Applicant at the Property.
- 1.2 The Objector objects to the Development on the following grounds:
- 1.2.1 The Development will harm the Conservation Area and will result in the loss of protected trees at the Property;
 - 1.2.2 The Development will harm the amenity of occupiers and neighbours; and
 - 1.2.3 The true intention of the Development may not be for a “self-build” home, contrary to the description of development.

2. PROPERTY

- 2.1 The Property consists of undeveloped land.
- 2.2 The planning statement prepared by Johnson Mowat (“**JM Statement**”) and submitted as part of the application notes that the Property previously formed part of the curtilage to Manor Cottage (to the immediate north of the Property). To the immediate east and south of the Property lies further residential development, and to the immediate west lies Shaw Lane.
- 2.3 As shown on the Local Plan Policies Map, the Property is located both within the development limits of Farnham, and within the Farnham Conservation Area (“**Conservation Area**”).

3. STATUTORY CONTEXT

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the determination of a planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.2 The Property is located within the Conservation Area, as identified within the Farnham Conservation Character Appraisal (approved 9 February 2011) (“**Appraisal**”). Pursuant to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“**PLBCA**”), in taking a decision in relation to the Application the LPA shall have special attention to the desirability of preserving or enhancing the character or appearance of the area.

4. DEVELOPMENT PLAN

4.1 The statutory development plan for the area in which the Property is situated is the Harrogate District Local Plan 2014-2035 (adopted March 2020) (“**Local Plan**”).

Development Limits

4.2 As mentioned above, the Property is located within the village of Farnham, and falls within the development limits of Farnham, as shown on the Local Plan Policies Map.

Windfall Development

4.3 Farnham is defined as a “smaller village” by Policy GS2. This policy states that “small scale infill development on non-allocated (windfall) sites in accordance with Policy GS3 will be supported.

4.4 Policy GS3 states *inter alia*:

“Within development limits, proposals for new development will be supported provided they are in accordance with other relevant policies of the Local Plan.”

Conservation Area

4.5 Policy HP2 (Heritage Assets) states *inter alia*:

“Proposals for development that would affect heritage assets (designated and non-designated) will be determined in accordance with national planning policy.

Applicants should:

[...]

C. Ensure that proposals affecting a conservation area protect and, where appropriate, enhance those elements that have been identified as making a positive contribution to the character and special architectural or historic interest of the area and its setting;

[...]

Harm to elements which contribute to the significance of a designated heritage asset or archaeological site of national importance will be permitted only where this is clearly justified and outweighed by the public benefits of the proposal. Substantial harm or total loss to the significance of such assets will be permitted only in exceptional circumstances.

Proposals which would remove, harm or undermine the significance of a non-designated heritage asset will be permitted only where the benefits are considered sufficient to outweigh the harm.

Schemes that help to ensure a sustainable future for the district's heritage assets, especially those identified as being at greatest risk of loss or decay, will be supported."

4.6 Informative 8.17 states *inter alia*:

"The [NPPF] identifies the conservation and enhancement of designated [...] assets in a manner appropriate to their significance as a material consideration in the determination of planning applications. New development should sustain and enhance the significance of heritage assets and can support these aims by creating or supporting viable uses that are consistent with an asset's conservation. There is a presumption in favour of the conservation and enhancement of heritage assets, and any harm will need to be clearly justified."

4.7 Policy HP3 (Local Distinctiveness) states *inter alia*:

"Development should incorporate high quality building, urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments. In particular, development should:

[...]

A. Respect the spatial qualities of the local area, including the scale, appearance and use of spaces about and between buildings or structures, visual relationships, views and vistas;

B. Respond positively to the building density, building footprints, built form, building orientation, building height and grain of the context, including the manner in which this context has developed and changed over time;

[...]

D. Take account of the contribution of fenestration, roofscape, detailing, trees and planting, the palette and application of materials, traditional building techniques, and evidence of past and present activity to local distinctiveness[.]"

Protection of Amenity

4.8 Policy HP4 (Protecting Amenity) states:

"Development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours.

Amenity considerations will include the impacts of development on:

A. Overlooking and loss of privacy;

B. Overbearing and loss of light; and

C. Vibration, fumes, odour noise and other disturbance.

The individual and cumulative impacts of development proposals on amenity will be considered.

New residential development should incorporate well-designed and located private and/or communal outdoor amenity space which is of an adequate size for the likely occupancy of the proposed dwellings.”

Protection of the Natural Environment

4.9 Policy NE5 (Green and Blue Infrastructure) states *inter alia*:

“Development proposals should:

[...]

E. Conserve and enhance the high quality and character of the district's towns, villages and rural environment by ensuring that all forms of new development are designed to a high standard and maintain and enhance the local vernacular and 'sense of place' of individual settlements[.]”

4.10 Policy NE7 (Trees and Woodland) states:

“Development should protect and enhance existing trees that have wildlife, landscape, historic, amenity, productive or cultural value or contribute to the character and/or setting of a settlement, unless there are clear and demonstrable reasons why removal would aid delivery of a better development.

Proposals that would result in the loss of, or damage to ancient or veteran trees or trees that are subject to a tree preservation order (TPO) will not be permitted unless:

A. There is an overriding need for the development that outweighs the loss or harm; and

B. Development is location specific and there is no preferable alternative location.

Development that results in the loss of, or damage to trees will be required to provide replacement trees on-site or, if this is not possible, compensatory planting off-site that is equivalent to the public value of the trees to be removed.

New development should be designed to ensure a satisfactory relationship between buildings and new and existing trees, which both safeguards the future health of the trees and avoids unacceptable impacts on residential amenity.”

5. MATERIAL CONSIDERATIONS

National Planning Policy Framework

5.1 The National Planning Policy Framework (“**Framework**”) dated September 2023 is an important material consideration for planning applications and sets out the Government’s national planning policies and guidance for new development.

5.2 Paragraphs 11 and 12 of the Framework state *inter alia*:

“11. Plans and decisions should apply a presumption in favour of sustainable development.

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

5.3 Paragraph 130 of the Framework states *inter alia*:

“Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

[...]

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

5.4 Paragraph 185 of the Framework states *inter alia*:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development[...].”

5.5 Paragraph 199 of the Framework states:

“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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

Conservation Area Appraisal

5.6 Paragraph 7.10 of the Appraisal refers to the land south of Manor Cottage (i.e., the Property) as being a former orchard, and Map 4 (Landscape Analysis) within the Appraisal identifies the Property as being an “important open space”.

5.7 Paragraph 5.5 of the Appraisal states *inter alia* (**our emphasis**):

“Historic maps show that in the late nineteenth and first half of the twentieth century fruit was grown in Farnham in orchards situated within the village and at its fringes. The orchards were typically in small fields or in the gardens of some of the larger houses. [...] **Although bereft of fruit trees, the former orchard spaces, particularly those with a street frontage, are important open spaces which soften the street scene and provide important visual links between the village and its pastoral setting.** They also act as ‘breathing spaces’ which separate different parts of the village. **Infill development, such as Beech Close and at Manor Farm, has reduced the openness of the village making these remaining open spaces of greater value to the Conservation Area.** These spaces include the field to the north of Farnham Hall, the open space to the south of The Old Cottage and the open space to the east of the Old Crown.

6. GROUNDS OF OBJECTION

6.1 The grounds of objection are as follows:

6.1.1 The Development will harm the Conservation Area and will result in the loss of protected trees at the Property;

6.1.2 The Development will harm the amenity of occupiers and neighbours; and

6.1.3 The true intention of the Development may not be for a “self-build” home, contrary to the description of development.

6.2 These grounds are discussed in further detail below.

7. GROUND 1: HARM TO THE CONSERVATION AREA AND LOSS OF PROTECTED TREES

Harm to the Conservation Area

- 7.1 The Property is located within the Conservation Area and is situated within an area which is designated as “important open space” within the Appraisal.
- 7.2 As expressly stated within the Appraisal, the reduction in openness within the village (as a result of historical development) has placed a greater value on the open space which remains, with such open space providing “important visual links between the village and its pastoral setting”.
- 7.3 The duty enshrined in Section 72(1) of the PLBCA creates a “*special presumption*” and “*considerable weight and attention*” should be given to any harm found to arise with regard to the character or appearance of the area: *Bath Society v Secretary of State for the Environment*.¹ Furthermore, in *R (Historic Buildings and Monuments Commission for England (known as Historic England)) v Milton Keynes Council*² it was considered that:

“[T]he phrase ‘character or appearance’ is not confined simply to the historic built fabric of the area. Whilst undoubtedly that historic built fabric will be integral to the ‘appearance’ of the area, it is important to note that the statutory test is quite deliberately not confined to simply visual matters. The inclusion of the area’s ‘character’ clearly broadens the range of qualities which can be relevant to the evaluative judgment, and in my view plainly incorporates within the test matters such as historic uses and the contributions which they make to the character of the area by influencing the understanding of that area and reflecting experiences that are not simply visual.

[...]

What is clear from the statutory language is that the judgment needs to be comprehensive, and to include all of those historic aspects of the area which bear upon its value and the appreciation of it. [...] The weight to be attached to each of the relevant historic dimensions or ingredients of the judgment is a matter which section 72 clearly leaves to the decision-maker in each individual case.”

- 7.4 Policy HP2 of the Local Plan states that proposals that would affect a designated heritage asset such as the Conservation Area will be determined in accordance with national planning policy, and that any harm to elements which contribute to the significance of the heritage asset will be permitted only where this is clearly justified and outweighed by the public benefits of the proposal. This Policy also requires that proposals affecting a conservation area protect and, where appropriate, enhance those elements that have been identified as making a positive contribution to the character and historic interest of the area and its setting.
- 7.5 The effect of Section 72 PLBCA and Policy HP2 of the Local Plan is that, in determining the Application, the LPA ought to attach a greater degree of weight to the preservation of the Property in its current form given the importance of the Property to the open space by virtue of its designation as “important open space”. This is emphasised

¹ [1991] 1 WLR 1303.

² [2018] EWHC 2007 (Admin), per Dove J at [63] and [64].

further by paragraph 199 of the Framework, which requires great weight to be placed on the asset's protection.

- 7.6 The Built Heritage Statement (prepared by MB Heritage) submitted as part of the Application ("**Heritage Statement**") refers to the fact that the setting back of the proposed dwelling from Shaw Lane will "*maintain [the] visual gap in views from Shaw Lane and Main Street*". It is then contended that "*the proposed dwelling will be screened by existing tree canopies and by new orchard tree planting which will re-establish the historic character of the site*", and that "*the re-establishment of orchard planting within the west section of the site will reflect this historic use and provide visual benefit, enhancing the appearance of the Conservation Area*".
- 7.7 The Heritage Statement's conclusions in this regard are, in our view, misinformed. It cannot reasonably be concluded that the "historic character of the site" will be maintained through a material change of use of the Property to a self-build house. Furthermore, three of the four westernmost trees currently sited on the Property (T2, T3 and T4 as shown on the Tree Survey Plan (ref. SF-3431-TS01) are proposed to be removed and replaced with trees less than one third of the current height (see plan SF-3421-LL01). The reduced height of the trees on the Property would thus negate any screening of the Development the trees currently in situ would provide. Furthermore, any screening of the Development the new trees will provide will not in any event be immediate due to their height.
- 7.8 As stated within the Appraisal, the Property's designation as "important open space" provides a degree of openness to the village. The erection of a dwelling on the Property would plainly harm the Property's open quality which the designation is intended to protect. This is the case regardless of any screening of the Development that takes place – determinations as to openness are not directly linked to the visibility of such open spaces but the existence of them generally.
- 7.9 Given that the difference in levels between the village green (a publicly accessible area) and the Property means that any built form erected on the Property will be visible from the village green irrespective of any potential screening, and will inevitably erode its openness.
- 7.10 The Heritage Statement concludes by stating that the "*construction of one private dwellinghouse can be accommodated without harm*". We consider this conclusion to be illogical due to the inevitable harm that the Development will bring about, if consented.

Loss of Protected Trees

- 7.11 As discussed above, the harm caused to the Conservation Area will also result in the loss of protected trees on-site.
- 7.12 With respect to development which would result in the loss of, or damage to, protected trees, Policy NE7 states that development "*should protect and enhance existing trees that have wildlife, landscape, historic, amenity, productive or cultural value or contribute to the character and/or setting of a settlement, unless there are clear and demonstrable reasons why removal would aid delivery of a better development*". Such development will not be permitted unless:
- 7.12.1 There is an overriding need for the development that outweighs the loss or harm; and

- 7.12.2 Development is location specific and there is no preferable alternative location.
- 7.13 Neither the JM Statement nor the Arboricultural Survey Report (prepared by Smeeden Foreman and dated June 2023) (“**ASR**”) submitted as part of the Application engage fully with Policy NE7 and provide clear and demonstrable reasons why the removal of the protected trees is needed in order to aid delivery of a better development. Indeed, while trees T2, T3 and T4 are noted as being “poor” in condition, the report states that trees described as such could be retained as living trees on-site for up to 10 years. Furthermore, plan reference SF3431-AIA01 at page 16 of the ASR clearly shows that these trees will not be affected by the entrance proposed by the Development in any event.
- 7.14 The restrictions imposed by Policy NE7 require an “overriding need” for the Development to be demonstrated. We are of the opinion that no such “overriding need” currently exists. The former Harrogate Borough Council (within which Farnham is located) was, until reorganisation into the new Unitary Authority, able to demonstrate a 5-year housing land supply. It is therefore clear that there is no housing need for the Development, and no other plausible arguments in respect of the need of the Development have been made by the Applicant in this case.
- 7.15 Furthermore, there will undoubtedly be more suitable and viable infill sites in the vicinity which could accommodate a scheme similar to the Development (should a need for such development be established) which would not result in such a degree of harm to the Conservation Area.
- 7.16 In the absence of the Applicant demonstrating an overriding need for the Development in this specific location, the Development will be contrary to Policy NE7 for the reasons set out above.

Ground 1: Conclusion

- 7.17 In summary:
- 7.17.1 Considerable weight and attention should be given to any harm found to arise with regard to the character or appearance of the area;
- 7.17.2 Policy HP2 requires proposals affecting designated heritage assets to be determined in accordance with national policy, with any harm to elements which contribute to the significance of the heritage asset being permitted only where this is clearly justified and outweighed by the public benefits of the proposal; and
- 7.17.3 Paragraph 199 of the Framework requires “great weight” to be placed on an asset’s protection.

The Development will, for the reasons set out above, be contrary to both local and national planning policy, and will not discharge the statutory duty on the Applicant contained within Section 72 PLBCA. The Development will harm the character and appearance of the Conservation Area, and will result in the loss of protected trees contrary to Policy NE7. There have been no public benefits put forward by the Applicant to justify such harm.

- 7.18 On this basis, the Application must be refused forthwith.

8. GROUND 2: HARM TO THE AMENITY OF NEIGHBOURING RESIDENTS

- 8.1 The topography of the Property is such that it is situated on higher ground in comparison to the properties to the immediate south. This can clearly be seen on Proposed Site Plan reference 2022.084-010 Rev A.
- 8.2 Policy HP3 requires development proposals to respect the spatial qualities of the local area (including the scale, appearance, and use of spaces about and between buildings or structures, visual relationships, views, and vistas), and Policy HP4 of the Local Plan requires development proposals to be designed to ensure they will not result in significant adverse impacts on the amenity of occupiers and neighbours. Consideration in this regard will be given to overlooking and loss of privacy impacts.
- 8.3 No formal landscape and visual impact assessment has been prepared and provided by the Applicant as part of the Application, which leads us to conclude that the impacts of the same have not properly been considered in any capacity.
- 8.4 However, the prominent position the dwelling will possess, coupled with its proportions being overly large and out of scale when compared to neighbouring dwellings, will result in harm to the amenity of local residents and in a discordant visual appearance when viewed from nearby viewpoints. For example, when occupied, the dwelling will enable the Applicant to see directly into the properties to the south, given that gable-end windows are to be installed on the side elevations.
- 8.5 The Development is therefore contrary to Policies HP3 and HP4 of the Local Plan. The Application must therefore be refused forthwith.

9. GROUND 3: SELF BUILD STATUS OF THE DEVELOPMENT

- 9.1 The Applicants are Directors of Yorkshire Land Limited (“YL”), a regional land promoter and developer.
- 9.2 The Objectors have been made aware of the fact that in completing the purchase of the Property, YL posted on social media confirming the same on 19 July 2022 (see **Annex 1³**).
- 9.3 Informative 5.32 to the Local Plan states that “*self-build is where someone directly plans the design and construction of their own home[...].*”
- 9.4 The principal objection in this respect is that the purchase, and subsequent development of the Property, may not in fact be as a self-build property as is suggested by the description of development.
- 9.5 Instead, given the social media post by YL, it is entirely reasonable for us to infer and to conclude that the Development is instead a thinly veiled attempt by YL to further its commercial gain by obtaining consent for a substantial property, before placing the same on the open market – contrary to the description of development.
- 9.6 We consider that the Development will be contrary to the Development Plan for the reasons set out above and, thus, that consent ought not to be granted.

³ Taken from <https://www.facebook.com/yorkshirelandlimited/posts/pfbid034K7Ap82KfU8E5SQctdqSUQZ1K6Mz81qhUShkZhS1HjZATD9TzqCcqyMKRfW332oi> (accessed 26 September 2023).

9.7 However, without prejudice to grounds 1 and 2 above, if the LPA were minded to grant consent pursuant to the Application, we would at the very least expect the LPA to obtain further assurances as to the intended use of the Property going forward, and to require the Applicant to provide a suitable unilateral undertaking restricting the use of the Property to their own personal use in accordance with the description of development.

10. CONCLUSION

10.1 The grounds of objection are as follows:

10.1.1 The Development will harm the Conservation Area and will result in the loss of protected trees at the Property;

10.1.2 The Development will harm the amenity of occupiers and neighbours; and

10.1.3 The true intention of the Development may not be for a “self-build” home, contrary to the description of development.

10.2 Overall, therefore, Policy GS3 supports development within “smaller villages” (such as Farnham) provided that such development is within the development limit, and provided that they are in accordance with other relevant policies of the Local Plan. For the reasons stated above, the Development will be contrary to relevant policies of the Development Plan, and no material considerations exist to indicate that consent ought to be granted.

10.3 On this basis, the Application must be refused by the LPA forthwith.

28 September 2023

Squire Patton Boggs (UK) LLP

ANNEX 1



Yorkshire Land Limited

19 July 2022 · 🌐



Delighted to have completed today on our off-market purchase of Manor Cottage, Farnham, North Yorkshire.

11 months since negotiations commenced... patience is a virtue!



👍 1

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