



# Appeal Decision

Site visit made on 1 July 2008

by **Malcolm Rivett BA (Hons) MSc MRTPI**

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

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**Decision date:**  
**22 July 2008**

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**Appeal Ref: APP/C2741/A/08/2068881**  
**Greenthwaite, Upper Poppleton, York, YO26 6DU**

- 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 B Britton and Ms J Liney against the decision of City of York Council.
- The application Ref 07/02196/FUL, dated 11 September 2007, was refused by notice dated 15 November 2007.
- The development proposed is to erect single dwelling on vacant building plot with separate access off School Lane.

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## Decision

1. I dismiss the appeal.

## Main issues

2. The main issues of the appeal are the effect of the proposal on:
  - highway and pedestrian safety;
  - the character and appearance of the Upper Poppleton Conservation Area (CA); and
  - the living conditions of the occupants of Beehives with particular regard to light and outlook.

## Reasons

3. Access to the proposal would be via School Lane which I understand currently serves 9 dwellings. Whilst narrow and unsurfaced from my visits to the site it appears that the volume of traffic on the lane is very limited. The junction of School Lane and Main Street is adjacent to a pedestrian entrance to the nearby primary school and close to a bus stop. However, visibility at the junction is in my view adequate given that this part of Main Street is a 20mph zone.
  4. One of my visits was at the end of the school day and although the area was busy with parents and children, both in cars and on foot, no safety problems were apparent. Whilst no vehicles entered or left School Lane during this period I am satisfied that one could do so without causing any danger to pedestrians or other vehicles and I understand that there have been no personal injury accidents at this location in recent years. I appreciate that the junction is not wide enough to allow vehicles to simultaneously enter and leave School Lane. However, given the volume of traffic using the lane I envisage that 2 opposing
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vehicles would approach the junction, or indeed each other elsewhere on the lane, only rarely. In any case I see no significant harm arising from a vehicle waiting on Main Street for a few moments whilst another turns out of School Lane. Concern has been raised about the safety of pedestrians on School Lane itself, including children chasing balls. However, given its surface it appears to me that drivers, including those of delivery vehicles, are likely to travel at such a speed that they could readily stop and give way, if necessary, to any pedestrians in the lane. I understand that large delivery vehicles have to reverse out of the lane but it seems unlikely to me that the proposal would result in a significant increase in such manoeuvres.

5. I see no reason why traffic generated by the proposal would cause significantly more damage to the surface of the lane than that associated with the existing dwellings. Existing residents refer to the need to take care when driving along the lane. I have no reason to believe that residents of, or visitors to, the proposal would not do likewise. I consider therefore that the traffic generated by one additional dwelling would be unlikely to cause any significant highway or pedestrian safety problems.
6. The Upper Poppleton CA is characterised by the wide variation in the style, form and age of its properties. Indeed, in my view, the juxtaposition of dwellings of different heights and roof forms is an attractive element of the village's character and appearance. Whilst the proposal would be higher and have a larger footprint than the dwellings immediately to its north, I do not accept the Council's contention that the reduction in size of properties as one travels southwards towards the more rural end of School Lane is a key element of the character and appearance of the CA. This is particularly so given that larger properties are visible from the appeal site.
7. The size and height of the proposed dwelling would be in keeping with many others in the village and, given the juxtaposition of properties of different sizes/heights, I consider that it would preserve the character and appearance of the CA. I find that, in this respect, the proposal would thus have no conflict with policies GP1, GP10 and HE2 of the City of York Draft Local Plan (incorporating the 4<sup>th</sup> set of changes) Development Control Local Plan or design guidelines 3, 8 and 12 of the Poppleton Village Design Statement. These policies and guidelines indicate that new development should be compatible with neighbouring properties and the character of the area and should maintain townscape elements which contribute to the character and appearance of CAs.
8. The proposal would be sited close to the boundary with Beehives and would extend for more than 10m along and beyond the length of that property's small rear garden. It appears to me that the existing boundary hedge, where it borders Beehive's rear garden, is not as tall or dense as shown on the plans and I envisage that it has a minimal effect in blocking light to the garden. I consider that the mass of the proposal, situated immediately to the south of Beehives, would be likely to overshadow the garden and rear facing rooms of this dwelling in the middle part of the day for significant periods of the year. In addition, in view of its proximity and length, the roof of the proposed dwelling would be very dominant in the outlook from Beehives' garden and, to a lesser although still material extent, from its rear facing rooms.

9. In my judgement this would cause significant harm to the living conditions of the occupants of Beehives, particularly when using their garden. I find therefore that the proposal conflicts with the requirement of policy GP1 of the Local Plan that new development does not unduly affect nearby residents with regard to overshadowing and dominance by overbearing structures. I appreciate that the Local Plan has not been formally adopted although the effect of a proposal on neighbours' living conditions is, in my view, an important consideration in the determination of a planning application and has therefore carried significant weight in my decision.
10. The appellants argue that Beehives has been constructed nearer to School Lane than indicated in the approved plans. However, even had it been built in accordance with the planning permission, as described by the appellants, the effect of the proposal on Beehives', albeit smaller, rear garden would be the same as I have identified above. The appellants also contend that Beehives, as approved, would have had a greater effect on the dwelling to its north than the appeal proposal would have on Beehives. I do not accept this argument as it appears to me that the proposal would project significantly further beyond the rear of Beehives than that property would have done so beyond its northern neighbour. That Beehives has been built close to the boundary with the appeal site is not good reason to permit a dwelling in close proximity to it, given the harm I have found it would cause.
11. Reference has been made to the possibility of the operation of a business from the proposal. However, other than for purposes which would be ancillary to the use of any dwelling, permission has not been sought for such a use. I accept that the construction of the dwelling would be likely to cause some disruption to local residents although this would be short term and is an inevitable consequence of most building schemes. This has therefore carried little weight in my decision.
12. In conclusion I have found that the proposal would be unlikely to be detrimental to highway/pedestrian safety or to the character and appearance of the CA. Nevertheless, I have found that it would cause material harm to the living conditions of the occupants of Beehives and I consider that for this reason alone the proposal should not be permitted. I recognise that Council officers recommended approval of the scheme and I note the circumstances in which the application was refused. I also appreciate that the dwelling would be constructed to a very high environmental specification. However, I consider that these are not good reasons to allow the appeal given the harm I have found the proposal would cause.
13. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR