
Appeal Decision

Site visit made on 31 October 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 21 November 2016

Appeal Ref: APP/E2734/W/16/3156609

Land to the rear of Minster View and Woodleigh, Hungate Lane, Bishop Monkton, Harrogate HG3 3QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ken Harper against the decision of Harrogate Borough Council.
 - The application Ref 16/01438/DVCON, dated 8 April 2016, was refused by notice dated 20 June 2016.
 - The application sought planning permission for the variation of condition 3 (approved plans) of Appeal planning permission Ref APP/E2734/A/14/222647 (13/04472/FUL) dated 31 December 2014 (Erection of detached dwelling and garage with associated access).
 - The condition in dispute is No 3 which states: "The development hereby permitted shall be carried out in accordance with the approved plans (i.e. site plan received on 11/12/13, drawing 2082.2 and drawing 2082.3)."
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling and garage with associated access in accordance with the application Ref 16/01438/DVCON, dated 8 April 2016 without complying with conditions 1, 3, 5 and 6 attached to planning permission Ref APP/E2734/A/14/222647 (13/04472/FUL), dated 31 December 2014 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to new conditions 1,3, 7 and 8:
 - 1) The development hereby permitted shall begin not later than three years from 31 December 2014.
 - 3) The development hereby permitted shall be carried out in accordance with the approved plans: Existing Site Plan; Proposed Floor Layouts – H42-04-PLG1; Proposed Elevations – H42-04-PLG2; and Proposed Site Plan – H42-04-PLG3.
 - 7) Notwithstanding the provisions of Article 3 and Schedule 2, Part 1, Classes A, B, C, or D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification), no extensions, windows or roof dormers other than those expressly authorised by this permission shall be constructed.
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8) The dwelling hereby permitted shall not be occupied until the first floor windows in the gable ends of the dwelling have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the local area and the setting of the Bishop Monkton Conservation Area (CA).

Application for Costs

3. An application for costs was made by Mr Ken Harper against Harrogate Borough Council. This application is the subject of a separate Decision.

Reasons

4. On 31 December 2014 planning permission was granted on appeal to erect a detached dwelling and garage with associated access on land to the rear of dwellings on Hungate Lane.
5. The CA, adjacent to the appeal site, has a key characteristic in the historic buildings along the main streets of the village. The previous Inspector found that the approved plot is not considered to be of importance to the setting of the CA. I would agree in view of its backland location within a built up part of the village, where none of the neighbouring buildings are conservation assets or significant examples of the distinctive features of the CA. He also concluded that the approved dwelling was fairly large, being a four-bedroom, two-storey detached house with attached double garage, but it would not appear cramped in what is an extensive appeal plot.
6. There is a variety of sizes of buildings in the locality, including large dwellings and substantial school buildings. It is agreed that the revised dwelling would be only slightly larger than the approved dwelling; however for the Council the key harm arising from the amended design would be its additional bulk and the incongruous effect of the new dormer additions.
7. I am aware that the previous Inspector found no exceptional circumstances that justified withdrawal of permitted development rights for enlargement of the house. The new dormers would extend the middle section of the rear and front walls of the garage upwards and are not set within the roof slope, in contrast to windows on the roofs of neighbouring houses. They would not compare with what might be granted permission under permitted development legislation because the new design would materially disrupt the eaves line of the roof. I accept that other changes might be made than at present proposed, but no specific alternatives are yet seriously countenanced. The more relevant comparison to make is between the approved scheme and the appeal proposal.
8. That said, although the new dormers would cut through the eaves and add bulk to the dwelling, I do not find them incongruous or that they would fundamentally harm the subordinate nature of this secondary element. Dormers may not be prevalent in the village or the CA generally, however they would not look so out of place in their immediate surroundings as to

unacceptably undermine the essential character of the CA. The approved dwelling would be clearly visible from the school and I am not convinced that the amended design would make it unduly prominent in views from that quarter or from the main road where it may be glimpsed between dwellings.

9. The footprint of the dwelling would be increased such that the garage element would be 1m wider and 1m deeper, whilst the main dwelling would be slightly wider and the footprint of the bay windows would now be covered by the two-storey element. Whilst this increase in footprint represents the likely maximum of development without giving it an unduly cramped appearance within the plot, on balance I am not persuaded that the proposed changes amount to overdevelopment of the site, or an incongruous addition that would harm the character or appearance of the environment or the setting of the CA.
10. In addition I consider that the new openings in the gable ends of the proposed dwelling would add interest to otherwise blank walls and the alterations to the fenestration on the main elevation would give the dwelling a more balanced, harmonious appearance.
11. It is not disputed that the Council can now demonstrate a five year supply of housing land but this does not count against the proposal in light of the extant permission.
12. I conclude that the proposal would preserve the character and appearance of the area including the setting of the CA and thus comply with Policies SG4 and EQ2 of the Harrogate District Core Strategy 2009 in that it would integrate with neighbouring buildings and the form and character of the settlement. It would also comply with Policy HD20 of the Harrogate District Local Plan 2001, as the design and size of the new dwelling would respect the scale and proportions of nearby properties and the fenestration would be well balanced in the elevation and sympathetic to surrounding buildings. These policies are consistent with Paragraph 64 of the National Planning Policy Framework, which seeks to preserve the character and quality of the area and the way it functions.

Other Matters

13. I have considered carefully the concerns of nearby residents and the objections made at application stage and in this appeal. Those which relate to the character and appearance of the CA have been considered in my reasoning above. The separation distances between the new first floor dormer window to the front elevation and neighbouring properties would not in my judgment result in unacceptable loss of privacy. Objections which include access and other living conditions matters, were considered by the Council at application stage, and I note that they do not form a reason for refusal. They could where appropriate, be adequately dealt with by means of a condition. Consequently, I do not regard them as sufficient, individually or cumulatively, to justify a refusal of planning permission in this instance.

Conditions

14. The Council has suggested conditions should permission be granted, which I now consider. In some cases I have amended the wording of suggested conditions in the interests of clarity.
15. As I am allowing the appeal and granting planning permission, the time limit should run from the date of the original permission so condition 1 will be

adjusted to that effect. To protect the character and appearance of the area a condition relating to approval of materials used on external surfaces is appropriate, as is a condition requiring details of a surface water drainage scheme to prevent localised flooding. Conditions 2 and 4 should therefore be retained.

16. The original permission contained conditions requiring the new dwelling to reach a certain standard under the Code for Sustainable Homes which has now been withdrawn¹. Where an existing plan policy supports the Code, equivalent standards may be applied as advised in the National Planning Practice Guidance (nPPG). However I have not been directed to any relevant policy that references these matters and the Council has not suggested retention of Conditions 5 or 6 attached to the original permission. I shall therefore omit these conditions from the permission to be granted.
17. Mindful of the advice in nPPG that to restrict future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptionally, I nevertheless consider that any further enlargement of the dwelling should be properly scrutinised in the interests of the character and appearance of the dwelling, the surrounding area and living conditions of neighbouring properties. I will impose a condition to this effect.
18. A condition to ensure that the windows in the gable ends of the new dwelling would be obscurely glazed is necessary and reasonable to ensure the privacy of users of the neighbouring gardens.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed. I will grant a new planning permission without conditions 1, 3, 5 and 6 but substituting new conditions 1, and 3, adding new conditions 7 and 8 and retaining the relevant non-disputed conditions 2 and 4, from the previous permission.

Grahame Kean

INSPECTOR

¹ See the Written Ministerial Statement – Planning Update – 25 March 2015 – <https://www.gov.uk/government/speeches/planning-update-march-2015>