
Appeal Decision

Site visit made on 1 November 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: 23 December 2016

Appeal Ref: APP/E2734/W/16/3156577

Land to Rear of 27-28 Park Parade, Harrogate, North Yorkshire HG1 5AG

- 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 M Ward against the decision of Harrogate Borough Council.
 - The application Ref 15/04162/FUL, dated 7 September 2015, was refused by notice dated 5 July 2016.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at Land to Rear of 27-28 Park Parade, Harrogate, North Yorkshire HG1 5AG in accordance with the terms of the application, Ref 15/04162/FUL, dated 7 September 2015, subject to the following conditions:
 1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: 14/1357 05E 'proposed floor plan and roofspace plan'; 14/1357 08D 'proposed site layout and roof plan'; 14/1357 06E 'proposed north and west elevations', and 14/1357 08E 'proposed south and east elevations'.
 3. No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the development including the boundary wall and all hard surfacing materials hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
 4. No development shall take place until a variation to Condition No 8 attached to planning permission Ref DCPEFULZ 09/01970/FUL (6.79.1405.J.FUL) has been approved so as to provide for additional parking spaces to be located as shown on the approved Plan 14/1357 08D 'proposed site layout and roof plan' such variation to include provision for the additional spaces to be kept available thereafter at all times for the parking of vehicles. The dwelling hereby permitted shall not be occupied until the parking spaces have been laid out in accordance with the approved plans.
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5. No development shall commence until a noise assessment report has been submitted by a competent person and approved by the local planning authority demonstrating sound attenuation against external noise not less than the "good standards" stipulated in BS8233:2014 with windows shut and other means of ventilation provided. The building envelope of the permitted dwelling shall be constructed in accordance with the approved details which shall be completed before occupation and retained thereafter.
6. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; erection and maintenance of security hoarding; wheel washing facilities; measures to control emission of dust and dirt during construction; a scheme for recycling/disposing of waste from demolition and construction works; and delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
7. The dwelling hereby permitted shall be single storey only.
8. Notwithstanding condition 2 no development shall take place until details of a subordinate and lower-pitched roof of the eastern projection have been submitted to and approved in writing by the local planning authority. This part of the development shall be completed only in accordance with the modification thus approved.
9. Notwithstanding condition 2 the windows of the approved development shall be of a double-hung vertical sliding sash configuration and the door and window frames shall be constructed in timber, set back a minimum of 25mm from the external face of the walls to form reveals. The openings shall be retained as constructed.
10. Notwithstanding condition 2 no development shall take place until details of the roof lights, to be designed to lie flush with the roof slope, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Main Issues

2. The main issues in this appeal are the effects of the proposal on:
 - a. the character and appearance of the area including the Harrogate Conservation Area; and
 - b. the living conditions of future occupiers and occupiers of neighbouring properties.

Reasons

Character and appearance

3. The appeal site is a car park with stone wall boundaries to the north, west and south, sited to the rear of 27-28 Park Parade, a Grade II listed building in a

built-up area of the town centre. To the west and south are 2 two-storey detached houses, The Cottage and Brodrick House. The appeal site is open on the east boundary along which a footpath runs perpendicularly from Walkers Passage. The footpath separates the appeal site from a further parking area to the rear of Nos 27-28, which sites together serve 6 flats in that building.

4. The appeal site has boundary walls about 1.3m on the north side and about 2.3m on the south and west side. Vehicular access to the site and the other parking area is under an archway through No 28. Walker's Passage, a narrow alleyway, runs across the northern boundary. The existing site plan shows 12 parking spaces on the appeal site and 4 spaces closer to the listed buildings.
5. It is pointed out that occupiers of Nos 27-28 contract for the use of more than one parking space within the site. However other evidence, including my own observations, suggests that the site is not fully used. The planning permission for the flats provided for 6 spaces. Any extra spaces that may be lost would be a matter for the owner and lessees outside the scope of this appeal. The appeal site is not a public car park and although I have seen that parking on Park Parade is fully subscribed I am not persuaded that its loss would materially increase parking congestion nearby.
6. The appeal scheme is a revised version of an earlier application that now consists of a single storey with a pitched slate roof. It would have a gable to the main elevation facing east, behind the path that bisects the existing parking areas. The materials and the new stone boundary wall to the east would be in keeping with the site's surroundings and the existing boundary walls which are some 1.3m to the north and 2.3m to the south and west.
7. The appeal site is within the Harrogate Conservation Area (CA). A duty exists when considering the grant of planning permission to pay special attention to the desirability of preserving or enhancing its character or appearance.
8. The CA's character appraisal (CAA) which is a material consideration, notes that the frontages of Nos 27-28 and others on Park Parade are an important heritage asset. The rear of the site where the new dwelling is proposed is in a different Character Area from the Park Parade frontages, enclosed by other buildings of varying ages and generally has a tight grain of development. The new dwelling would be glimpsed from the street scene through the archway underneath No 28. It would be set well back from this viewpoint and I do not consider that the character of the street scene would be affected as a result.
9. The new dwelling would be smaller than The Cottage and Brodrick House which both have spacious and secluded grounds in front of their main elevations that give out onto Christ Church Oval. Their external space to the rear and side is more limited and bounded by the walls adjoining the appeal site. Interested parties question the new dwelling's single storey design given its rooflights, and express clear concern at the over-dominant roof of the eastern projection whose ridge height would be only marginally below that of the main element.
10. I consider that the height and pitch of the new roof of this projection would have an incongruous and harmful effect on the appearance of the narrow main element of the house. However, subject to a condition requiring approval of a lower-pitched, clearly subordinate roof design, the new dwelling would not in my view be cramped in appearance or out of character with its immediate

setting, including the historic boundary walls. A condition to ensure that the dwelling remains single storey would avoid it appearing unduly overdeveloped.

11. Overall the proposal would enhance the appearance of the appeal site by replacing an underused and less attractive parking area with a dwelling of simple but properly articulated design that would have an appropriately low profile and preserve the character and appearance of the CA.
12. In considering applications that affect a listed building or its setting there is a duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Nos 27-28 are an attractive pair of town houses dating from the early nineteenth century. It is undisputed that their special architectural or historic interest derives from their frontage and group townscape value which would in my view be unaffected by the proposal.
13. The appeal site and adjoining parking area are not untypical of some back lanes in the town centre I have seen that are not of high environmental quality, where less consideration has been paid to rear elevations, which in the case of Nos 27-28 are relatively modern. As a whole the buildings are sensitive to change, but the siting of the new dwelling in my view would not affect their essential character or appearance.
14. To conclude on this issue the proposed dwelling would subject to appropriate revision to its eastern roof projection have an acceptable appearance, including in relation to the prevailing character and appearance of the street scene. It would comply with CS Policies SG4 and EQ2 of the Harrogate District Local Development Framework: *Core Strategy* 2009 (CS) by integrating well with neighbouring buildings and the spatial qualities of the locality.
15. It would also comply with Policies HD3 and HD20 of the Harrogate District Local Plan 2001 (DLP) by preserving the character and spatial quality of the CA and respecting but not mimicking the character of its surroundings. It would contribute positively to the spatial quality of the area, in line with the National Planning Policy Framework, Paragraph 17 which promotes high quality design.

Living Conditions

16. Two guidance documents are relevant to this issue: Supplementary Planning Document: *House Extensions & Garages Design Guide* (SDP) adopted in 2005, and the Residential Design Guide 1999 (RDG) which has been subject to a sustainability appraisal and consultation. They provide guidance on separation distances between dwellings, windows and gardens and between buildings. The SDP can be applied to new dwellings and both documents carry weight.
17. The separation distance between the new front windows and the rear windows of the apartments on 27-28 Park Parade would comply with the RDG and from what I saw there would be no undue overlooking, overbearing or loss of light in relation to those flats or others such as No 25a that face the appeal site.
18. The northern corner of Brodick House is about 1.8m from the existing boundary wall which is at least 2m high, and the new single storey dwelling would be some 1.7m to the north of the wall. The new dwelling would have a blank gable to the boundary wall with Brodick House whose rear first floor windows would face at an oblique angle to the forecourt area of the new dwelling.

19. The RDG advises a separation distance of 6m between a blank single storey extension and a neighbouring bedroom window, reducible where the view is at an angle. The separation distance from the nearest clear glazed window is somewhat shorter than the guidance stipulates. However in view of the particular configuration and from what I have seen, including my observations from within Broderick House, the relationship between the two buildings would not give rise to overshadowing or overlooking or have an overbearing impact.
20. I also viewed the appeal site from within The Cottage which has first floor windows overlooking the site. The new dwelling would be about 3.5-4m from the boundary wall with an obscure-glazed bathroom window on its rear elevation, and dining/living room windows at an oblique angle to the main rear elevation of The Cottage. From my observations of the juxtaposition between this and the new dwelling, I am satisfied there would be no unacceptable loss of privacy, overshadowing or overbearing caused to residents of the Cottage.
21. Concerns raised by the Council and interested parties relate to a car repair and other businesses sited close to the appeal site. There is potential for these operations to impact adversely on future occupiers through noise and disturbance although this would be mitigated to an extent by the solid boundary walls. The environmental health officer had no objection to the proposal subject to an assessment of the level of any insulation work required to the building envelope. I see no reason why such a condition would not adequately protect occupiers of the new dwelling. External areas may still be subject to noise although this would be inevitable to a certain extent in an urban environment where prospective purchasers will be aware of the situation.
22. Concern is expressed that the proposed front garden would be overshadowed but there is no analysis submitted as to the loss, if any, of natural light to the new premises. Taking account of my own observations including the orientation of the new dwelling, surrounding development and distances therefrom, I am satisfied that overshadowing would not be so oppressive to future occupiers as to demonstrably harm the use of the land.
23. To conclude on this issue the proposal would comply with CS Policy SG4 and DLP Policy HD20 and supplementary guidance in that it would not cause unacceptable harm to the living conditions of residents nearby, or those of future occupiers, through overbearing, overlooking or overshadowing.

Other Matters

24. The comments from nearby residents have been carefully considered. Apart from matters related to the main issues in this appeal, they focus on parking, refuse collection arrangements, damage to nearby property, vandalism and the financial motives of the appellant.
25. Adequate on-site car parking would be provided for the residents of the apartments in Nos 27-28 as shown on the submitted plans, relocated to land in the appellant's control at the rear of the apartment building. A variation would be required of the permission associated with Nos 27-28 which I deal with when considering the question of conditions below. The proposal is not objected to by the local highway authority and in my view it would not cause materially adverse effects on highway safety or significant parking problems elsewhere.

26. The relocated refuse bin area would remain accessible to refuse collectors. Comments were received related to vandalism and crime in the vicinity. Improvements to Walkers Passage would be for the Council to consider, but in my view the proposal would provide a benefit in terms of safety and crime prevention through a more active use of the appeal site and mutually beneficial surveillance. The new single dwelling would make only a small contribution to the supply of housing, but this would nevertheless also be a positive benefit.
27. The construction phase of the development could potentially cause increased noise and disturbance to nearby residents, a matter of which the appellants, having seen the representations from interested parties would be well aware. However I see no reason why a condition requiring adherence to an approved construction method statement could not properly and reasonably control any unacceptable impacts. Possible damage to neighbouring property is not a planning matter within the scope of this appeal, nor are the financial motives of the appellant relevant.

Conditions

28. The Council has suggested conditions should planning permission be granted which I have considered alongside those deemed necessary for the reasons described above. Where appropriate I have adjusted the wording in the interests of clarity and enforceability.
29. In addition to standard time limited conditions and to ensure the development accords with the approved plans, a condition is needed in the interests of highway safety to require the relocated parking spaces to be laid out and available before occupation of the dwelling. Their long term retention outside the appeal site could not be satisfactorily secured by means of the condition suggested by the Council, bearing in mind the likely severance of the land. It is however reasonable to ensure from the outset that their retention is secured in the long term. I have therefore varied the Council's wording to that effect.
30. Approval of external facing materials and conditions requiring appropriately designed door and window frames and rooflights are appropriate, as are conditions to retain it as single storey and to require a subordinate design of the roof of the eastern projection, to protect the character and appearance of the dwelling and the CA.
31. For reasons above stated conditions to protect the dwelling from unacceptable levels of noise and requiring a construction method statement are necessary. In the interests of certainty I consider that the noise assessment should be approved before development commences. The application was supported by completion of a questionnaire related to contaminated land, however the Council has not raised any concerns or sought to justify the proposed condition on this topic. I therefore find such a condition to be unnecessary.

Conclusion

32. For the above reasons and having regard to all other matters raised the appeal is allowed.

Grahame Kean

INSPECTOR