
Appeal Decision

Site visit made on 20 February 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 24th February 2017

Appeal Ref: APP/E2734/W/16/3164746

Land at Walton Place, Pannal, Harrogate, North Yorkshire.

- 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 John McNicholas RIBA against the decision of Harrogate Borough Council.
 - The application Ref 16/03095/FUL, dated 22 July 2016, was refused by notice dated 21 October 2016.
 - The development proposed is construction of a dwelling, studio and garage with associated car parking and amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the living conditions of existing occupiers at numbers 42 and 44 Walton Park with specific reference to outlook and the effect on the living conditions of future occupiers with regards to privacy.

Reasons

Character and appearance

3. Walton Place is a linear cul-de-sac surrounded by residential properties. It provides access to a number of properties on its south western side. The appeal site is on the opposite side of the cul-de-sac, adjacent to the side of a new dwelling and to the boundary of the rear gardens on Walton Park. Whilst there are a variety of building styles there is broad consistency in terms of layout with properties set behind front gardens with gardens to the rear with the exception of 12 Walton Place which directly abuts the pavement.
 4. It is proposed to erect one two bedroom single storey dwelling, a detached double garage and a detached home office/studio together with parking and landscaping. The single storey dwelling would be expressed in three parts, two mono-pitched roofed blocks containing a living area and sleeping area separated by a flat roofed glazed entrance lobby. The proposed double garage would sit in the north-west part of the site and the detached home office/studio would be in the north east corner.
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5. Section RDG3 of the Council's Residential Design Guide (RDG) 1999 states that the siting of new buildings should reflect the grain of the existing settlement which comprises building lines, the pattern of buildings and the spaces between them and also the ratio of building to overall plot size. It is recognised that amendments have been made since an earlier iteration of the scheme including an overall reduction in size, the introduction of the glazed link to break up the massing of the dwelling and a change in materials to match those of properties along Walton Place. Landscaping is also proposed in order to 'soften' the appearance of the proposed new buildings.
6. Although the proposal would occupy less than 50% of the plot, due to the linear nature of the site the proposed buildings would be situated in close proximity to the front and rear boundaries resulting in a cramped appearance. Furthermore, the elongated form of the dwelling extending across the site in three main blocks and the proximity of the buildings to the road would be in stark contrast to the traditional layout of surrounding properties which are generally set back from the road with small enclosed front gardens. Moreover, the mono-pitched roofs and unusual fenestration pattern with windows primarily focused on the side elevations would increase the incongruous appearance of the proposal and would fail to respect the form and design of surrounding properties.
7. In my view, the constraints of the site have resulted in a contrived design which lacks a coherent architectural identity and which fails to reflect the character of the area. Contrary to the assertion that the proposal would enhance this side of Walton Place, I consider that the proposal would be an incongruous addition to the area at odds with the prevailing form of development.
8. Attention is drawn to 'design exemplars' in the surrounding area; however, other than photographs no details are provided of the surrounding environment, when the buildings were built or the planning policy context in which they were determined. Consequently, I cannot be certain that they are directly comparable to this case, which limits the weight which I can attach to them in my Decision.
9. A previous proposal¹ involving two storage buildings was refused by the Council and subsequently dismissed at appeal² on grounds relating to the effect of the proposal on neighbouring occupiers. Concerns were not raised by the Council in relation to the effect of the proposal on the character and appearance of the area as it was considered that domestic scale buildings would not be uncommon within a residential area. However, I consider that the previous scheme is fundamentally different to the current proposal which involves the creation of a separate residential plot and the significant additional mass and bulk created by the dwelling. I consider that the cumulative visual effect of the elements which comprise the current appeal proposal would have a harmful effect on the character and appearance of the area.
10. Whilst the proposal would bring a vacant piece of land back into use I consider that this benefit would be outweighed by the significant harm which I have identified.

¹ Council reference: Planning application 15/01470 Ful

² Appeal reference: APP/E2734/W/15/3097750

11. For the reasons stated, I consider that the proposal would cause significant harm to the character and appearance of the area. It would, therefore, be contrary to Policy SG4 of the Council's Core Strategy (Core Strategy) 2009 which, amongst other things, requires all development proposals to be well integrated with and complementary to, neighbouring buildings and the spatial qualities of the local area. In addition, conflict arises with Policy EQ2 of the Core Strategy which, amongst other things, seeks to ensure that new development incorporates high quality locally distinctive design.
12. Furthermore, conflict arises with saved Policy HD20 of the Harrogate District Local Plan 2001 which, amongst other things, seeks to ensure that proposals for new buildings make a positive contribution to the spatial quality of the area; that new buildings respect the local distinctiveness of existing buildings, settlements and their landscape setting; and respect the scale, proportions and height of neighbouring properties. Moreover, conflict arises with the RDG. Finally conflict arises with paragraphs 17 and 56 of the National Planning Policy Framework (the Framework) which seek to secure high quality design which contributes positively to making places better for people.

Living conditions of Existing Occupiers

13. The appeal site is situated to the south of the rear of numbers 40, 42 and 44 Walton Park which I noted on my site visit have shallow rear gardens. The proposed dwelling and home office would be approximately 900mm off the boundary with the adjacent gardens and the proposed detached garage and studio would both be approximately 600mm off the boundary. The internal floor levels of the proposed dwelling would be sunk below existing ground levels between around 600mm and 1m resulting in an overall height above ground level of approximately 2m to the rear and 3m to the front.
14. The diagrams included in the Council's House Extensions and Garages Design Guide (HEGDG) 2005 show that a single storey extension or outbuilding should be located at least 8 metres from any facing windows in the neighbouring property in order to avoid harmful overbearing or shadowing impacts. The HEGDG notes that these minimum distances will be increased on a case by case basis when the development impacts upon the southern aspect of a neighbouring property. In applying the Guidance, I am also mindful of the proposed reduction in ground levels.
15. The proposed garage and studio are shown on the plans to be situated at the same distance from the boundary as the garage and storage building in the previous proposal³. I note that the Council considered that the garage and storage building met the required separation distances from facing windows in the properties to the rear in the previous proposal.
16. The required separation distance appears to have been achieved between the proposed studio and 44 Walton Park and the studio would be off-set from the rear elevation of No 44. Due to the scale of the plans the evidence is inconclusive as to whether the required separation distance has been achieved between the proposed garage and No 40; however, the separation distance would be in the region of 8m and the garage would be slightly off-set from the rear elevation of No 40. Consequently, I do not consider that the proposed garage and studio would have a harmful effect on the living conditions of No 40

³ Planning application reference 15/01470/FUL

and No 44 Walton Park. Although situated to the south of the properties on Walton Park, I consider that due to the reduced height on the boundary and the presence of the existing 2m fence that the proposal would not result in significant overshadowing of the properties.

17. No 42 Walton Park is a two-storey dwelling with a conservatory to the rear in close proximity to the boundary and No 44 Walton Park is a bungalow. It would appear from the plans that the required separation distance would not be met between the proposed dwelling and Nos 42 and 44. In particular, the conservatory would be very close to the proposal.
18. The proposal has been reduced in height to approximately 2m on the rear boundary with Nos 42 and 44 by reducing site levels and through the use of the mono-pitch roof. However, the apex of the roof would be 3m above ground level and hence it would be visible over the fence from the gardens of those properties. It is suggested that the dwellings would be perceived as single storey outbuildings on the other side of the fence by residents of Nos 42 and 44 Walton Place. However, the dwelling would extend a significant proportion of the common boundary of No 42. Due to the apex of the roof and the proximity to the boundary, I consider that the dwelling would result in a greater sense of enclosure for the occupiers of No 42 than the existing 2m fence. Although the sense of enclosure would not be as pronounced for occupiers of No 44 due to the more limited width of the bedroom block and their long rear boundary they would, nevertheless, be aware of the dwelling.
19. Furthermore, No 42 has three first floor windows which overlook the site and occupiers currently have an outlook over the open appeal site. Two of the windows are large and appear to serve bedrooms which are habitable rooms. The occupiers would retain some outlook over and above the dwelling; however, instead of an open outlook they would look down upon the expanse of a mono-pitched roof in close proximity to the property. Furthermore, the roof would be tilted towards them revealing a significant proportion of the slope thereby increasing the visual impact.
20. Although there is some landscaping on the rear boundary of No 42, trees and plants could die or be felled over time and replacement planting could take some time to establish. I, therefore, place limited weight on landscaping as a means of screening the proposed development. Taking these factors in combination, I consider that due to the scale of the proposal in close proximity to Nos 42 and 44 Walton Park that the proposal would result in a materially greater sense of enclosure for existing occupiers of those properties than the existing fence.
21. Furthermore, although not raised by the Council the garden of the proposed dwelling would be overlooked from the first floor windows of No 42 to the detriment of the privacy of future occupiers.
22. For the reasons stated I conclude that the proposal would have a detrimental effect on the living conditions of existing occupiers of Nos 42 and 44 Walton Park with regards to outlook and future occupiers of the proposal with regards to privacy. The proposal would, therefore, be contrary to Policy SG4 of the Core Strategy which expects visual, residential and general amenity to be protected and where possible enhanced.

23. Furthermore, conflict arises with criterion I of Saved Policy HD20 of the Local Plan which expects new development to respect the privacy and amenity of nearby residents and occupiers of adjacent buildings. Furthermore, conflict arises with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

24. At the time the Council determined the application the five year supply of housing stood marginally above 5.1 years. As of 1 January 2017 the Council has re-calculated its housing land supply as being 4.95 years. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing sites.
25. Saved Policy HD20 of the Local Plan, Policy SG4 of the Core Strategy relate to the design of new development and are not, therefore, a policy for the supply of housing. They are not, therefore, automatically out of date by virtue of paragraph 49 of the Framework. I can see no conflict of the policy with the Framework and consequently significant weight can be attached to it in my Decision.
26. There is very limited evidence before me as to whether Policy EQ2 is a policy for the supply of housing in the context of paragraph 49 of the Framework. However, I have identified that there would be significant harm to the character and appearance of the area arising from the proposal which would be contrary to paragraph 56 of the Framework which states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. I have also identified that the proposal would cause significant harm to the living conditions of existing and future occupiers which would be contrary to paragraph 17 of the Framework.
27. The proposal would not, therefore, constitute sustainable development as required by paragraph 14 of the Framework. The adverse impact of the proposal would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the nearby listed farm buildings at Spacey Houses Farm. The location, scale and design of the proposed development are such that the setting of these buildings would not be adversely affected.
29. I have also had regard to the appellants concerns regarding the Council's handling of the application and other matters raised by third parties, none of which would alter my overall conclusion.

Conclusion

30. For the reasons stated and taking all other considerations into account, the appeal should be dismissed.

Caroline Mulloy

Inspector