
Appeal Decision

Site visit made on 27 February 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 16th March 2017

Appeal Ref: APP/E2734/W/16/3165460
40 Harrogate Road, Ripon HG4 1SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr David Spackman against the decision of Harrogate Borough Council.
 - The application Ref 6.31.1135.J.FUL, dated 23 August 2016, was approved on 26 October 2016 and planning permission was granted subject to conditions.
 - The development permitted is alterations to existing outbuilding.
 - The condition in dispute is No 1 which states that: "The development hereby permitted shall be begun on or before 4 months of the date of this decision."
 - The reason given for the condition is: "To ensure compliance with Sections 91–94 of the Town and Country Planning Act 1990."
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Decision

1. The appeal is allowed and the planning permission Ref 6.31.1135.J.FUL for alterations to existing outbuilding at 40 Harrogate Road, Ripon HG4 1SU granted on 26 October 2016 by Harrogate Borough Council, is varied by deleting condition 1 and substituting for it the following condition:
 - 1) The development hereby permitted shall begin not later than 20 July 2017.

Background and Main Issue

2. The appeal relates to a detached outbuilding that has been erected to the side of the host property. The building has a long planning history that is set out fully in the evidence from both parties that involves a number of applications, appeals and enforcement action. The application to which the appeal relates granted permission for the retention of the rear part of the building. It was subject to a planning condition requiring work to be begun on or before 4 months of the date of the permission (i.e. 26 February 2017).
3. In addition to the application to which the appeal relates, the appellant applied for a further planning permission¹ for the retention and alteration of the existing building and the erection of a link to the main dwelling. An application for a Certificate of Lawful Development was also submitted for a single storey extension. At the time the appeal was made the outcome of these was not known and the appeal sought to extend the period of complying with this condition to enable the outcome to be known, and to allow sufficient time to implement work as necessary.

¹ Application Reference 6.31.1135.K.FUL

4. The Council have indicated that the planning application was granted permission on 20 January 2017. I understand the Certificate of Lawful Development was also granted at the same time. The planning permission was subject to a condition that requires the development permitted to be commenced before the expiration of 6 months from the date of the decision (i.e. 20 July 2017).
5. The main issue in the appeal is whether the condition in dispute is reasonable and necessary.

Reasons

6. It is not disputed that, due to the planning history of the appeal site, in this case it is appropriate for the implementation condition to be shorter than the standard three years. Nothing I have seen or read leads me to come to a different conclusion in this regard. However, given the subsequent planning application, referred to above, allows the retention of a greater part of the existing building, any work on the building in advance of the outcome of this to implement the appeal proposal could have proved abortive if it had been successful. As such, I consider it was reasonable for the appellant to seek an extension of the time limit, to enable the on-going planning processes to be clarified, and for the appellant to decide upon a course of action following this.
7. The Council have indicated that, despite the grant of the more recent permission on the site, the bespoke timeframe provided by the disputed condition is still considered necessary. However, in the light of the planning processes outlined above, I consider that it is reasonable to extend the time limit for commencement of work for the appeal proposal to match that on the other planning permission i.e. to the 20 July 2017. This would still ensure that the implementation of the proposal had to commence within a short time frame.
8. For the reasons set out above, I conclude the appeal should be allowed and the planning permission should be varied as set out in the formal decision.

Alison Partington

INSPECTOR