
Appeal Decision

Site visit made on 28 February 2017

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/H2733/W/16/3162329
20A The Beach, Filey YO14 9LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Alison Truelove against Scarborough Borough Council.
 - The application Ref 16/01255/NMA is dated 27 June 2106.
 - The application sought planning permission for "*erection of a two storey double garage with living accommodation over for use as holiday let*" without complying with a condition attached to planning permission Ref 13/01687/FL, dated 1 April 2014.
 - The condition in dispute is No 1 which states that: "*the development hereby approved shall be carried out in strict accordance with drawing number BD.758/05D showing the floor plans and elevations received on the 7 March 2014 and drawing number BD.758/04C showing the site layout received on the 10 December 2013*".
 - The reason given for the condition is "*For the avoidance of doubt*".
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Decision

1. The appeal is allowed and planning permission granted for erection of a two storey double garage with living accommodation over for use as a holiday let at 20A The Beach, Filey YO14 9LA in accordance with the planning application Ref 16/01255/NMA dated 27 June 2106, without compliance with Condition 1 previously imposed on planning permission Ref 13/01687/FL, but otherwise subject to all other conditions attached to planning permission Ref 13/01687/FL and subject to the following new conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby approved shall be carried out in strict accordance with drawing numbers BD.758/04C dated 10 December 2013, BD.758/05D dated 7 March 2014, and in respect of glazed patio doors, balcony and canopy to the east elevation and two eaves level windows to the north elevation only, drawing numbers BD.758/17, BD.758/18F and BD.758/25 all stamped received by the Council on 17 June 2016.
 - 3) The two eaves level windows shall be obscure glazed and non-opening.

Procedural Matters

2. Section 6 of the application form indicates that the appellant seeks to vary Condition 1 of planning permission 13/01687/FL to allow the development to
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be constructed in accordance with amended details to "*improve the balcony design and access*". The changes sought are shown on drawing BD.758/25. They propose construction of a larger first floor glazed opening and balcony to the east elevation and the insertion of two additional obscure glazed windows in the north elevation.

3. The Council are concerned that in other ways the building under construction may not accord with that shown on the approved plans and that cumulatively the overall external width, depth and eaves height of the building under construction would be materially greater in size than that of the building approved under planning permission 13/01687/FL. However, this is an application to vary a condition of an existing permission. Therefore these other matters are not before me.

Main Issues

4. I consider that the main issues in this case are the effect that varying Condition 1, to allow the construction of first floor glazed patio doors and associated balcony in the east elevation and the insertion of two first floor windows with opaque/obscure glazing into the north elevation as shown on drawing BD.758/25, would have on (i) the character and appearance of the locality with particular regard to the conservation area, and (ii) the living conditions of occupiers of neighbouring property.

Reasons

Character and appearance

5. The Filey Conservation Area (CA) Character Area and Management Proposals, 2012 identifies the site as being within Area 7 where the buildings, predominantly a mixture of hotels, boarding houses and dwellings, nestle at the foot of the cliff.
6. The locality is predominately characterised by a range of styles of Victorian villa and apartment buildings. Most have large picture windows at ground floor level and above looking out to the sea. There are a number of different designs and some are of modern construction. There is also a mixture of decorative details including balustrading, glazed porches and railed fencing.
7. In between these large buildings smaller scale buildings can be seen. These are quite subordinate and different in character from the Victorian villas and apartments. The appeal building appears as one such building.
8. Views of the two eaves level windows in the side elevation of the appeal building would be restricted. In the limited available views they would appear in keeping with the design and would not detract from the character and appearance of the locality.
9. A large glazed opening with a balcony at first floor level in the front/east elevation would be in keeping with the general character of buildings with large windows facing the sea. The proposed patio door glazing would appear little different in height than that for the approved scheme. It would be wider and have a more horizontal emphasis, reflecting that of the garage door below. A glazed canopy would be slightly wider than that for the approved scheme, but

otherwise would be of a similar design, scale and position. A balcony to the front would be approximately 1m wider than that indicated for the approved scheme but of a similar depth. Balustrading around the balcony would be of the same height as previously proposed, but a glazed panel construction would appear more lightweight.

10. All in all I find the proposed changes to the front elevation are relatively minor and would appear little different to the approved scheme in most views. The proposal would be in keeping with, and strengthen the character of sea view facing picture windows. Set within a clearly subordinate building the modern style would not detract from more traditional Victorian villas and apartments along the frontage. The details would complement the variety of window designs and fenestration details elsewhere in the CA.
11. I conclude that that varying Condition 1 to allow the construction of first floor glazed patio doors and associated balcony in the east elevation, and the insertion of two first floor windows with opaque/obscure glazing into the north elevation as shown on drawing BD.758/25 would preserve the character and appearance of the locality and CA.
12. I find no conflict with Policies E12 and E14 of the Scarborough Borough Local Plan (Local Plan) which seek to ensure that the design of new development and alterations to existing buildings are, amongst other things, visually attractive, do not detract from the character and appearance of the locality and would not otherwise harm the street scene. Nor do I find any conflict with advice in the National Planning Policy Framework (Framework) which includes that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (paragraph 17).

Living conditions

13. The approved scheme includes a balcony of similar depth to the appeal scheme. The building is intended as a holiday let and there are no proposals before me to change the internal accommodation so that it could accommodate any more persons than the approved scheme. I am not persuaded that making the balcony wider would result in a material increase in activity on the balcony than would have been possible or likely on the approved balcony.
14. Even without the indicated 'planters' the ends of the proposed balcony would be only marginally closer to properties to either side than the approved balcony. Immediately surrounding the balcony the areas are used for access and parking and have quite open frontages. The potential views over these areas and the perception of proximity would be little changed from that which would occur from the approved scheme. There is nothing to say that the occupants of the building would cause disturbance or be unsociable.
15. Two windows on the northern elevation would be modest in size and obscure glazed. The amount of light emitted through these small windows would be very limited.
16. I conclude that varying Condition 1 to allow the construction of first floor glazed patio doors and associated balcony in the east elevation, and the

insertion of two first floor windows with opaque/obscure glazing into the north elevation as shown on drawing BD.758/25 would not adversely affect the living conditions of occupiers of neighbouring property by overlooking, loss of privacy or overbearance.

17. Accordingly I find no conflict with Policy H10 of the Local Plan which seeks to ensure development does not have an adverse effect upon residential amenity by overlooking, loss of privacy and overbearance. Nor would it conflict with advice at paragraph 17 of the Framework that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters and Conditions

18. Concerns relating to building control construction matters are not before me in this planning appeal.
19. If I were to allow the appeal, to protect the amenity of occupiers of adjacent property, it would be reasonable and necessary to impose a condition requiring that the additional windows in the north elevation are obscure glazed and that they are non-opening. It would also be reasonable and necessary to impose a new condition to specify which plans are approved, and this must be caveated that it relates only to the windows and balcony.

Conclusions

20. The effect of varying Condition 1 to enable the development to be completed in accordance with the details shown on Drawing BD 758/25 would not be harmful to the character and appearance of the locality and the CA, or the amenity of occupiers of adjacent properties. The character and appearance of the CA would be preserved.
21. I find no conflict with Policies E12 and E14 of the Local Plan and advice in the Framework that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and conservation of heritage assets in a manner appropriate to their significance.
22. Therefore, and having taken into consideration all other matters raised, including objections from several local residents, I conclude that the appeal should be allowed and planning permission granted subject to conditions and as set out in paragraph 1 of this decision.

Helen Heward

PLANNING INSPECTOR