
Appeal Decision

Site visit made on 13 July 2017

by M Seaton DipTP MRTPI

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

Decision date: 02 August 2017

Appeal Ref: APP/E2734/W/17/3169766

Land to rear of Furtherdown, South Crescent, Ripon, North Yorkshire, HG4 1SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr & Mrs Ronald Appleton-Metcalf against the decision of Harrogate Borough Council.
 - The application Ref 16/03264/REM, dated 29 July 2016, sought approval of details pursuant to condition No. 1 of an outline planning permission Ref 15/00330/OUT, granted on 15 January 2016.
 - The application was refused by notice dated 11 October 2016.
 - The development proposed is for the erection of 1 detached dwelling (site area 0.04ha) and the felling of two fruit trees in the Ripon Conservation Area.
 - The details for which approval is sought are: access, appearance, landscaping, layout, and scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely details of access, appearance, landscaping, layout, and scale submitted in pursuance of condition No.1 of outline planning permission Ref 15/00330/OUT granted on 15 January 2016, subject to the conditions set out in the Annex attached to this decision.

Main Issue

2. The main issue is the effect of the proposed dwelling on the living conditions of the occupants of the Loft House and No. 4 Heckler Lane, with particular reference to outlook and whether there would be an adverse sense of enclosure, and overshadowing of garden land.

Reasons

3. The appeal site comprises a parcel of land set to the rear of the existing dwelling known as 'Furtherdown' on South Crescent, with access to the site taken from Heckler Lane to the east. The land is essentially level and is bounded by a combination of fences, walls, and mature planting, beyond which are located the various curtilages of surrounding dwellings.
 4. I am mindful that since the submission of the appeal, a subsequent reserved matters application proposing an alternative (albeit similar) design of dwelling on the appeal site, has been granted by the Council (*LPA Ref: 16/05567/REM*). I am satisfied that this approval has created a 'fallback' position where there
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would be a realistic prospect of the approved scheme being brought forward, as has been indicated to be the case by the appellant. In this respect, my consideration of this appeal must therefore effectively be limited to an assessment of the differences between the extant approved scheme, and the appeal scheme.

5. In comparing the approved scheme and the appeal scheme, the principal differences which would affect The Loft House and No. 4 Heckler Lane relate to the position of the footprint and the relative heights of the eaves and ridge of the roof.
6. The precise footprint of the dwelling the subject of the appeal, is located further to the east within the site, albeit that its overall length remains consistent. The main bulk of the dwelling would appear to be set at approximately the same distance away from the boundary with The Loft House and No. 4 Heckler Lane, although I note that a lean-to single-storey garden store would intrude into the gap to the boundary, and which did not form part of the approved scheme. I am also mindful that whilst the ridge height of the appeal dwelling would be marginally higher, the eaves on the northern elevation would be set considerably higher than on the same elevation on the approved scheme.
7. In carefully considering the impacts of the proposed development, I accept that the variations in the design would essentially result in a marginally larger scheme than that which has been approved. Despite the Council's conclusion of the proposed dwelling being closer to the northern boundary than that approved, this assessment would seem to relate to the indicated garden store rather than the main bulk of the dwelling, which I am satisfied as a consequence of its position and scale would not have an unacceptable impact on neighbouring properties. Furthermore, whilst acknowledging the marginal increase to the ridge height and increase in height to the eaves, I am satisfied that the changes to the bulk and visual impact of the proposed dwelling would not be significant or result in an unacceptable adverse impact on the living conditions of properties to the north having regard to a sense of enclosure or natural light available to garden users, beyond that which has already been approved. Likewise, I am satisfied that the greater proximity of the proposed dwelling to the eastern end of the appeal site would not result in an unacceptable relationship with neighbouring dwellings.
8. I have noted that the Council has not drawn the conclusion that the proposed dwelling would result in an adverse impact on neighbouring occupiers with regards to overlooking or loss of privacy and, having regard to the disposition and nature of windows on the proposed dwelling, this is a conclusion with which I would agree.
9. I accept that the proposed dwelling would be larger than the recently approved dwelling which provides a 'fallback' position for development of the appeal site. However, in respect of the impact on the living conditions of the occupants of Loft House and No. 4 Heckler Lane, having regard to outlook, sense of enclosure, and overshadowing, I am satisfied that by comparison with the approved scheme that any additional impact would not be significant, and would not tip the balance against the proposals to the extent that they would be unacceptable.

10. I have not therefore found there to be conflict with saved Local Plan Policy HD20 of the Harrogate District Local Plan 2001: Saved Policy Version – Sept 2007 and Harrogate Core Strategy (2009) Policy SG4. These policies seek to ensure that development should respect the amenity of nearby residents and occupiers of adjacent buildings. Furthermore, the proposal would accord with paragraph 17 of the National Planning Policy Framework, which sets out that development should seek to secure a good standard of amenity for all existing occupants of land and buildings.

Other Matters

11. As a consequence of the location of the appeal site within the Ripon Conservation Area, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the setting of the heritage asset (the conservation area). Section 72(1) of the Act sets out that in the exercise of planning functions, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
12. The appeal site is indicated to be within the Victorian Suburbs Character area, as set out in the Ripon Conservation Area Character Appraisal (2009). It is acknowledged that many post-war detached houses have infilled the area, with the vicinity of the appeal site characterised by a tight urban grain within which are located a variety of building styles and dwellings. In this respect, the proposed design of the dwelling would accord with the character and appearance of the conservation area, and I would agree that the dwelling would be contained within the site and that the individual design and use of materials would be acceptable in this context. I find that the overall lack of prominence of the dwelling also minimises any potential for visual impact on the heritage asset, and that the proposal would as a consequence preserve the character and appearance of the conservation area.
13. I note that there has been an objection to the felling of 2 fruit trees on the appeal site from a neighbouring occupier. Whilst I would acknowledge as desirable the avoidance of felling trees, I consider that in this instance the loss of the 2 fruit trees, in light of the level of existing boundary planting and proposal for additional planting would not result in an overall adverse impact on the character and appearance of the site and heritage asset. I also note that the Council's own technical advice provided by the Arboricultural Section has concluded there to be no objection to the proposal in this respect.

Conditions

14. The Council has suggested several conditions in the event that permission was to be granted. I am satisfied that a condition requiring the construction and approval of a sample panel of external walling would be reasonable and necessary in the interests of preserving the character and appearance of the conservation area. Furthermore, conditions requiring the completion of the related parking facilities and removal of permitted development rights for the use of the garage as general domestic accommodation, would be reasonable and necessary in the interest of ensuring that the development provides and retains sufficient off-street parking.

Conclusion

15. For the reasons set out above, and subject to the conditions listed in the Annex, the appeal should be allowed.

M Seaton

INSPECTOR

Annex

Conditions

- 1) The development to which this approval of reserved matters relates shall be begun on or before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) The development hereby approved shall be carried out in accordance with the approved drawings numbered: 16/520/SP102, 16/520/SP101, 16/520/PL-101, and 16/520/PL-102.
- 3) Prior to the construction of the external walls of the development hereby approved, a sample of the external walling of the development shall be submitted for the inspection and written approval of the local planning authority. Once approved the development shall be completed in accordance with the approved sample.
- 4) No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing 16/520/SP101. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), the garage shall not be converted into domestic accommodation without the granting of an appropriate planning permission.