
Appeal Decision

Site visit made on 4th August 2017

by Alison Roland BSc DipTP MRTPI

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

Decision date: 30th August 2017

Appeal Ref: APP/E2734/D/17/3176888

Westwood House, 10 Victoria Road, Harrogate, HG2 0HQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Mr and Mrs Smith against the decision of Harrogate Borough Council.
 - The application Ref: 6.79.11052.D.DVCON, dated 16 February 2017, was refused by notice dated 10 April 2017.
 - The application sought planning permission for erection of single and two storey extensions and open porch, conversion of playroom to office, alterations to fenestration, demolition of existing single storey extensions and formation of hardstanding without complying with a condition attached to planning permission Ref: 6.79.11052.C.FUL, dated 1 November 2016.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details, as modified by the conditions of this consent, received 24 October 2016: - 01601-210 Revision F - 01601-211 Revision G - 01601-212 Revision G - 01601-213 Revision G - 01601-214 Revision G.*
 - The reason given for the condition is: *In order to ensure compliance with the approved drawings.*
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Decision

1. The appeal is allowed and planning permission is granted for erection of single and two storey extensions and open porch, conversion of playroom to office, alterations to fenestration, demolition of existing single storey extensions and formation of hardstanding, at Westwood House, 10 Victoria Road, Harrogate, HG2 0HQ, in accordance with the application Ref: 6.79.11052.D.DVCON, made on the 16th February 2017, without complying with condition No 2 set out in planning permission Ref: 6.79.11052.C.FUL granted on 1 November 2016 by Harrogate Borough Council, subject to the following conditions:
 1. The development hereby permitted shall be begun on or before 01.11.2019.
 2. The development shall be carried out in accordance with the following approved plans: Site Location Plan: Drwg No: 01601-100; Contextual Elevations: Drwg No: 01601-110; As Proposed Ground Floor Plan: Drwg No: 01601-210 Revision E; As Proposed First Floor Plan: Drwg No: 01601-211 Revision F; As Proposed Roof Plan: Drwg No: 01601-212 Revision F; As
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Proposed General Arrangement Sections: Drwg No: 01601-213 Revision F;
As Proposed General Arrangement Elevations: Drwg No: 01601-214 Revision F.

3. Prior to the commencement of the development hereby permitted, a sample of the stone to be used externally shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.
4. Prior to the commencement of the development hereby permitted, a sample of the windows to be used externally shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.
5. The roof lights hereby permitted shall be in the conservation style, recessed within the roof slates.
6. All new doors and windows shall be set back a minimum of 100mm from the external face of the walls to form reveals.

Main Issues

2. The main issues in this appeal are the implications of the condition in terms of (1) whether the proposal would preserve or enhance the character or appearance of the Harrogate Conservation Area (CA) and (2) its impact on the living conditions of occupiers of No 9 Victoria Road by virtue of the potential for overbearing and overshadowing effects.

Reasons

3. Planning permission Ref 6.79.11052.C.FUL (the 2016 permission) granted consent for a range of alterations and extensions to the host property. The effect of condition 02 was to confine the approval to specified drawings. The subsequent application Ref: 6.79.11052.D.DVCON (the 2017 application) sought to effect a minor material amendment to the former permission to allow for the provision of a pitched roof over the previously approved flat roofed addition to the elevation facing Victoria Road.
4. The appeal site comprises a detached dwelling situated within a frontage of mostly detached properties. The site falls within Character Area F of the Harrogate CA known as The Valley Gardens and Cold Bath Road Area in the Harrogate Conservation Area Character Appraisal 2010 (HCACA). This states that it is difficult to generalise about the buildings of the Character Area in view of its heterogeneity and that is certainly the case along Victoria Road where the dwellings are all of different design and there are some modern flatted developments on the Eastern side.
5. The appeal property is discretely sited, set well down below road level behind a hedgerow and frontage of trees. The most prominent elevation is the South Western side of the house which is visible on the approach to the appeal site from that direction. From this aspect, the sweeping stone roof slope with its gable and chimneys is evident and the elevation facing Victoria Road can only be glimpsed. The latter is more visible viewed from the opposing direction to the North, but even from this aspect views are filtered by the frontage hedgerow and a large tree in the front garden of No 9 Victoria Road.

6. The provision of the pitched roof over the previously approved flat roofed addition would increase the bulk of the property, but not markedly so. The slight set down from the ridge of the main house roof would ensure it would appear as a subordinate addition thereto and it would not assert itself relative to the host dwelling.
7. Whilst I take the Council's point that the extensions approved under the 2016 permission markedly increased the resultant size of the dwelling, the appeal proposal would represent only a small additional increase to its roof form. I do not accept their assertion that it would obscure the most visible parts of the dwelling; it would simply render the elevation facing the road slightly more prominent and the consented scheme involved extensive remodelling in any event. Neither, given the limited scale of the addition and the fact the dwelling is politely set down relative to the road level, do I accept it would appear incongruous in the street scene. Indeed, several other nearby properties including No 9 Victoria Road adjacent to the appeal site feature significant forward projections. The resultant property would still sit well within its spacious and well landscaped plot.
8. For these reasons, I conclude on the first main issue that the proposal would integrate comfortably with the host dwelling and as such it would preserve or enhance the character or appearance of the CA. It follows that I find no conflict with National Planning Policy Framework (the Framework), Policies EQ2 and SG4 of the Harrogate Local Development Framework Core Strategy 2009 (CS), Policies HD3, H15 and HD20 of the Harrogate District Local Plan 2001 (LP) and the House Extensions and Garages Design Guide Supplementary Planning Document (2005) (SPD). These seek to secure high quality locally distinctive design, which protects the Districts high quality built environment, is well integrated with and complementary to the spatial qualities of the local area and which does not have an adverse effect on CA's.
9. In relation to the second main issue, the Council's concern rests with the impact of the proposal on a front facing living room window in No 9. Since the appeal scheme would occupy the same footprint as the consented scheme, the impact of the proposal on the occupiers of No 9 must relate to the additional massing presented by the pitched roof. As the proposal would be sited to the South of the window in question, it would give rise to some overshadowing of it. However, having regard to the separation distance, coupled with the fact that the living room is also served by a larger window on the rear elevation, I do not consider that it would appreciably reduce the daylight or sunlight therein.
10. In relation to overbearing effects, Appendix D of the SPD sets out recommended guidelines to prevent loss of residential amenity. The diagram depicts that in order to prevent excessive overbearing, a two storey extension should project no further than 1.5m multiplied by the distance to the neighbouring boundary, from the face of the neighbouring property. However, in this particular case the upper floor accommodation would be formed in the roof space and the proposal would have a lower eaves than a typical two storey extension and a correspondingly lower massing. Moreover, since the roof would retreat away from No 9 as it rises to the apex, it would not result in an unacceptable level of enclosure to that property. In addition, it would stand closest to the front garden of No 9 which is largely given over to a yard/parking area, as opposed to being adjacent to a primary amenity area.

11. For these reasons, I conclude on the second main issue that the proposal would not give rise to unacceptable overbearing or overshadowing effects. It would thus comply with the advice in the Framework, together with Policy SG4 of the CS and Policies H15 and HD20 of the LP, which seek to ensure that new development respects and has no adverse effect on the amenity of nearby residents.
12. As I have found in favour of the appeal in relation to both main issues, it follows that the appeal succeeds. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
13. Conditions relating to materials and the detailing of windows, rooflights and doors are necessary to secure a satisfactory finish in the interests of the appearance of the CA. In relation to condition No 7 of the 2016 permission, (obscure glazing of ground floor hall and staircase windows), the parties were canvassed as to its necessity given that the windows in question face the gable wall of No 9 Victoria Road which contains an obscure glazed window at ground floor. Having regard to the existing situation and bearing in mind that the windows would serve non habitable rooms, I consider this condition is unnecessary.
14. In addition to the conditions imposed on the 2016 permission, the Council suggest the standard time limit condition and a matching materials condition. However, planning permission cannot be granted under section 73 to extend the time limit within which a development must be started and I shall therefore reimpose the original time limit condition. In addition, as matching stone and stone slate roofing is specified on the plans and bearing in mind the terms of condition 3 of this decision requiring submission of a stone sample, I consider a matching materials condition is unnecessary. The Council also suggested a condition removing permitted development rights for the insertion of windows in the North West side elevation of the extension. Following written correspondence, they later confirmed they intended it to relate to the North East elevation. The Council queried whether the limitations of Schedule 2 Part 1 Class C.2 (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, would apply to the North Eastern elevation which they consider to be the front elevation. Either way, as the nearest part of the curtilage to No 9 serves a yard/parking area in front of that dwelling facing the public domain, as opposed to a private amenity or sitting out area, I consider this condition is neither reasonable nor necessary.

ALISON ROLAND

INSPECTOR