



Appeal Decision

Site visit made on 23 October 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 07 November 2017

Appeal Ref: APP/H2733/W/17/3179994

Land at 24 Main Street, Irton, Scarborough YO12 4RH

- 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.
 - The appeal is made by Mr M Temple (Walker and Hutton) against Scarborough Borough Council.
 - The application Ref 16/01665/FL, is dated 10 August 2016.
 - The development proposed is the demolition of an existing workshop and the construction of a new dwelling.
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Decision

1. The appeal is dismissed and planning permission for the demolition of an existing workshop and the construction of a new dwelling is refused.

Procedural Matter

2. The appeal follows the failure by the Council to determine the application within the statutory timeframe. I have, however, been supplied with the Council's draft reasons for refusal which it would have used had it been in a position to determine the application and these have formed the basis of the main issues in this case.

Main Issues

3. I consider the main issues to be firstly, the effects of the proposed development on the living conditions of the occupants of 26a Main Street, 14 and 15 Green Island and Irton Court, in terms of privacy, daylight and sunlight and outlook; secondly, the effects of the proposed development on the character and appearance of the area; and thirdly, the effects of the proposed development on the highway safety of the area.

Reasons

Site, Surroundings and Proposed Development

4. The appeal site is currently occupied by a single-storey workshop, limited in scale and largely lacking in structural openings, with a roughly semi-circular cross-section. It is inter-mingled with residential development accessed via a private drive branching off from Main Street, including 26a Main Street, an L-shaped bungalow to one side and the long rear elevation of 30 Main Street to the other. Across the Street are the grounds of Irton Court a substantial one

and a half-storey residential building. Scales, sizes and plot ratios of dwellings in the immediate environs of the appeal site vary considerably. The proposed development would remove the existing workshop at the site to facilitate the development of a long one and a half storey three bedroom dwelling roughly on the footprint of the existing workshop.

Living Conditions

5. The proposed development would be located very close to the flank wall of No 26a, which contains several habitable room windows. Consequently, the long windows in the north elevation of the proposed development, which would serve an area annotated as a kitchen/living room, would allow a high degree of mutual overlooking between these properties. As a result this would diminish the privacy of the occupants of No 26a to a substantial degree. As the side of the existing workshop which faces No 26a does not contain any windows the proposed development would clearly have more materially harmful effects than the extant building in these regards.
6. The proposed development would be located more or less due south of No 26a, and the scale of flank walling it would introduce would be considerably taller than the structure currently on the appeal site. This scale combined with the proximity of the proposed development would materially diminish the amount of daylight and sunlight available in the adjacent windows of No 26a.
7. Moreover, the increased scale of walling in the immediate proximity of No 26a's flank windows would also constitute an enclosing and overbearing presence that would erode the quality of the outlook available from them to a considerable degree. Consequently, taking these matters together leads me to the view that the proposed development would cause significant harm to the living conditions of the occupants of No 26a.
8. The back garden of the proposed development would be of a limited depth, as are those of 14 and 15 Green Island to its rear. Consequently, the proposed dwelling would be located close to the rear gardens of Nos 14 and 15, and their rear elevations which include habitable room windows, and dormer windows in their roof slopes. The proposed development would include glazed doors and a Juliet balcony serving a bedroom on its rear elevation, which due to their height and close proximity to Nos 14 and 15 would allow a high degree of overlooking of gardens and habitable room windows, both at ground floor and in the dormers, and would substantially reduce the privacy available to the occupants of those Green Island dwellings. As a consequence this would cause considerable harm to their living conditions.
9. The proposed development would include fenestration in the upper part of its front elevation. However, the separation distance between the proposed development and the garden of Irton Lodge, combined with the mature planting present on the boundary of that latter property, and the oblique relationship of the buildings would all serve to limit the depth and extent of overlooking available from the appeal scheme's front windows. Consequently, I consider that the proposed development would not result in a material reduction in the privacy available to the occupants of Irton Lodge and would thus cause no harm to their living conditions in this respect.
10. I have found that no harm would occur to the living conditions of the occupants of Irton Lodge as a result of the proposed development. However, I have

found that it would have materially harmful impacts in respect of the privacy of the occupants of 15 and 16 Green Island, and in respect of the privacy, and availability of sunlight, daylight and outlook of the occupants of No 26a Main Street. These harmful effects clearly outweigh the lack of harm I have found in respect to the living conditions of the occupants of Irton Lodge, and lead me to the conclusion that the proposed development would cause significant and considerable harm to the living conditions of the occupants of 26a Main Street and 14 and 15 Green Island.

11. For these reasons, the proposed development would conflict with Policy DEC4 of the Scarborough Borough Local Plan (adopted July 2017) (the Local Plan), insofar as it seeks to ensure, amongst other things, that existing and future occupants of land and buildings are provided with a good standard of amenity.

Character and Appearance

12. Whilst I saw that the amount, shape and position of amenity space vary in the immediate residential environs of the appeal site, the proposed development would have a very limited amount of space available at its rear. Moreover, the appeal scheme would be sandwiched tightly between the long elevations of the dwellings on its flanks, with extremely limited separation distances achieved. These aspects of the proposed development would impart a character of cramped congestion to the streetscene, which due to the appeal scheme's dominant scale and residential character would have substantially more marked effects in this respect than the existing building on the plot.
13. Consequently, the proposed development would cause material harm to the character and appearance of the area in this respect. As a result it would conflict with Policy DEC1 of the Local Plan insofar as it seeks, amongst other matters, to ensure that the detailed design of development responds positively to its local context.

Highway Safety

14. I note the lack of detail in the submitted plans regarding the proposed parking provision, and also the lack of clarity regarding whether a ground floor space would be used as a garage or utility room. However, I am cognisant of the existing commercial use of the site, and of comments from residents regarding the amount of vehicles used in association with this use, and the resultant frequency of trips to and from the site. Consequently, I consider that a residential use of the site would not lead to materially more parking or traffic movements than its current use. In arriving at this view I am mindful of comments regarding the potential for the business use to continue following implementation of the appeal scheme; however, I have no substantive material before me to suggest that this would be the case, and moreover, the appeal scheme clearly seeks to establish a residential use of the site.
15. Accordingly, these considerations, taken together, lead me to the view that the proposed development would not cause significant adverse highway safety impacts. As a result the proposed development would not conflict with the National Planning Policy Framework insofar as it seeks to ensure, amongst other matters, that safe and suitable access to sites can be achieved, and that developments avoid severe residual cumulative transport impacts.

Other Matter

16. I note the appellant's comment that they would be willing to adapt the plans. However, such matters are outside the scope of this appeal which has focussed on the details of the development as submitted in respect of the planning application.

Conclusion

17. Whilst I have found no material harm would arise from the proposed development in terms of highway safety it would nevertheless cause significant, considerable and material harms to the living conditions of the occupants of 26a Main Street, those of 14 and 15 Green Island; and to the character and appearance of the area. In the overall planning balance these harmful effects of the development clearly outweigh its lack of highway safety harm.
18. Accordingly, as the appeal scheme conflicts with the aforementioned policies of the development plan, and no material considerations would justify a departure from those policies in this instance, I conclude, for the reasons set out above, and taking into account all other matters raised, that the appeal should be dismissed.

G J Fort

INSPECTOR