
Appeal Decision

Site visit made on 23 October 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 08 November 2017

Appeal Ref: APP/E2734/D/17/3180241

New House, Sandy Bank, Church Lane, Pannal, Harrogate HG3 1NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Hodson against the decision of Harrogate Borough Council.
 - The application Ref 17/00941/FUL, dated 23 February 2017, was refused by notice dated 25 April 2017.
 - The development is a studio.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My site inspection confirmed that the development has been largely implemented, and I have determined the appeal on the basis that the development has already occurred. A fuller site address than that on the application form has been provided on the appellant's Appeal Form and the Council's decision notice. I have therefore used the more comprehensive address in the heading above

Main Issue

3. The main issue raised by this appeal is the effect the development has on the living conditions of occupiers of adjoining residential properties, with particular reference to enclosure and any overbearing effects.

Reasons

4. The appeal building is a detached, single storey, timber clad structure. It is located in a flat, largely lawned garden located to the rear of a short terrace of four houses. This garden is elevated in relation to the rear gardens of the adjoining terrace. Combined with the proximity of the building to the rear of these houses, particularly 2 and 3 Sandy Bank, it has a sensitive relationship to these properties as a result.
5. The rear aspects and rear gardens of Nos 2 and 3 already experience a degree of enclosure as a result of their lower situation compared with the appeal site. A tall sides of a former quarry bound the rear of the appeal site which also creates an enclosed character to the rear of all properties, albeit that this is largely situated some way from Nos 2 and 3.

6. The combination of the height of the flank elevation of the studio building facing the rear of Nos 2 and 3, the elevated situation of the land it is located on and its proximity to the rear of adjoining dwellings has resulted in a structure which appears very close to the rear of those properties (7.1m according to the appellant's figures). This overbearing arrangement has resulted in an unacceptable degree of enclosure and an oppressive effect when experienced from rear windows and modest rear gardens of Nos 2 and 3. This is materially different to the effects of the existing topography and levels. Consequently the living conditions of occupiers of those adjoining dwellings will have been materially harmed as a result.
7. Council guidance¹ advises that single storey outbuildings should be situated a minimum of 8m from neighbouring properties, assuming the site is level with neighbouring properties. The studio is not only closer than this minimum recommendation but its height and the elevated level of the site relative to adjoining properties would indicate a greater distance may well be necessary to accord with the guidance.
8. The development is contrary to Core Strategy² Policy SG4 and saved Local Plan³ Policies HD20 and H15 which together, amongst other criteria, seek to protect visual, residential and general amenity, avoiding adverse effects on occupiers and residents. The development does not accord with the National Planning Policy Framework's (the Framework) core planning principle of always seeking to secure a good standard of amenity for all existing occupants of land and buildings.
9. The absence of harm in the form of overlooking, loss of light or detrimental effects on local character, as identified in the Council's Delegated Decision report, are neutral considerations and do not weigh in favour of the development.
10. The appellant's proposal to grow climbing plants on the flank wall of the studio has the potential to soften its appearance but this would not overcome the effect of its height and bulk. Even if the appellant is correct in his assessment that he could erect a taller fence along the boundary and this would also have an enclosing effect, it would be materially different in appearance and effect to the solid nature, scale and bulk of the studio structure. I am conscious that the appellant has previously removed trees along the party boundary to avoid adverse effects on neighbours and advises that he has consciously sought to avoid negative effects on them. However, I have considered the appeal in light of the circumstances which presently exist and this, and other considerations, does not lead me to conclude that the development is acceptable.

Conclusion

11. For the above reasons, the development materially harms the living conditions of occupiers of adjoining residential properties contrary to the development plan, Council guidance and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

¹ House Extensions & Garages Design Guide, 2005.

² Harrogate District Local Development Framework - Core Strategy, 2009.

³ Harrogate District Local Plan, 2001.