



Appeal Decision

Site visit made on 4 December 2017

by M Seaton DipTP MRTPI

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

Decision date: 27 December 2017

Appeal Ref: APP/H2733/W/17/3181770

19 South Crescent Road, Filey, Scarborough, North Yorkshire, YO11 2HA

- 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 without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Dibb against the decision of Scarborough Borough Council.
 - The application Ref 16/02548/FLA, dated 10 December 2016, was refused by notice dated 9 February 2017.
 - The application sought planning permission for the conversion of existing workshop/garage into a 3 bedroom holiday unit; to include an extension to the principal elevation without complying with a condition attached to planning permission Ref 11/01163/FUL, dated 29 September 2011.
 - The condition in dispute is No. 3 which states that: *The accommodation hereby permitted shall not be used for purposes other than holiday letting purposes. For the purposes of the condition 'holiday letting' means letting to the same person, group, persons or family for periods not exceeding 28 days in any one financial year. The accommodation shall not be used as the main residence of any occupant.*
 - The reason given for the condition is: *In accordance with Policy E12 of the Scarborough Local Plan, in the interests of the residential amenities of the locality, and in light of the reduced amenities experienced by users of the properties.*
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Procedural Matter

1. Since the determination of the planning application, the Development Plan has been updated by the adoption and publication of the Scarborough Local Plan 2017 (the Local Plan). As a result, saved Policies H10 and H12 of the Scarborough Borough Local Plan 1999, which were cited in the Council's reason for refusal, have been superseded and no longer apply. The Council has identified Policy DEC4 of the Local Plan as being of relevance, and a replacement for the previously saved Policy H10. I am satisfied that the appellant has been provided with the opportunity to comment on the change to the Development Plan within the context of the appeal procedures, and I am therefore satisfied that no party would be disadvantaged by my determination of the appeal on the basis of the up-to-date Development Plan policies.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is whether the condition is reasonable or necessary in the interests of safeguarding the living conditions of future occupiers, having regard to privacy.

Reasons

4. The appeal site accommodates two separate buildings comprising a three-storey former residential property (The Stables) fronting directly on to South Crescent Road, and a former workshop/garage building (The Boat House) located to the rear of the site. As I observed, both buildings were laid out and furnished and have been occupied as holiday lettings accommodation, and whilst structurally distinct, are capable of being inter-linked by virtue of a gated access available through the rear patio areas for each property.
5. The appellant has indicated a desire to change the occupation of the two buildings from the holiday letting use for which they were originally converted, to two separate units of permanent residential accommodation. In this respect, the Council has raised particular concerns over the impact that permanent residential occupation would have on the respective privacy of the future occupiers of the two units.
6. I have carefully considered the inter-relationship between the two properties, and as a consequence of the existing fence limiting the potential for a loss of privacy between the ground floors of the buildings, I have had particular regard to the potential for overlooking and loss of privacy to and from the first and second floor windows.
7. I acknowledge that the rear bedroom windows within The Stables have incorporated obscurely glazed lower panels, which whilst preventing any significant loss of privacy for occupiers of the bedrooms, do not prevent the potential for occupiers to be able to look through the clear glazed upper panels towards The Boat House. In this respect, I share the Council's concerns that the distance between the two properties of 7-9.7 metres would result in the potential for an unacceptable loss of privacy from direct overlooking between habitable room windows. In particular, I consider that a loss of amenity for future permanent occupiers of The Boat House could necessitate the need to require curtains or blinds to be closed or drawn on a semi-permanent basis in order to maintain acceptable levels of privacy, or the incorporation of other similar devices to restrict the impact, to the detriment of light and/or outlook. Whilst this relationship has clearly been judged to be acceptable for short-term holiday lettings, I am not persuaded that it would be so for permanent occupation.
8. The appellant has drawn my attention to the comparatively dense character of the surrounding area, and also to existing relationships between buildings, which it is contended are similar to that being proposed in this instance. I observed the relationship between The Boat House and surrounding properties, and also noted the references to distances between facing properties across streets in the 'old part' of Filey. However, I do not regard such historic relationships between buildings to set a justifiable precedent for allowing new permanent residential accommodation with a poor standard of living conditions for future occupiers, and have not been directed to more contemporary

situations or relationships as part of a characteristic form of development in the area.

9. I have also been mindful that the original reason for condition No. 3 reflected upon the fact that those occupying the units would be subject to *reduced amenities*, with the wording of the condition making it quite clear that occupation for holiday letting was seen as exceptional in the circumstances. There is no evidence before me to support that there has been a material change of circumstances in this respect.
10. Therefore for the reasons given above, I conclude that the condition requiring the occupation of the accommodation for 'holiday letting' only, would be both reasonable and necessary as a consequence of the adverse effect on the living conditions of future occupiers that would arise, having regard to privacy, from permanent occupation. The condition ensures that the development accords with policy DEC4 of the Local Plan, which seeks to ensure that proposals for development should not give rise to unacceptable impacts by means of overlooking and loss of privacy, amongst other matters.

Other Matters

11. I have had regard to the Council's contention that in order for the properties on the appeal site to be occupied as 'stand-alone' residential units, it would also be necessary to either vary or remove condition No. 4 of the original planning permission. However, as a consequence of my conclusions on the main issue, this is not a matter which I have found it necessary to address in reaching my decision on the appeal proposal.

Conclusion

12. For the reasons given above, the appeal is dismissed.

M Seaton

INSPECTOR