



Appeal Decision

Site visit made on 20 August 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/G2713/D/19/3231887

The Old Orchard, Cooper Lane, Potto, North Yorkshire DL6 3HQ

- 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 Graham against the decision of Hambleton District Council.
- The application ref 19/00717/MRC, dated 27 March 2019, was refused by notice dated 22 May 2019.
- The application sought planning permission for an extension to the existing dwelling comprising extended garage and entertainment area above, as amended on 4 November 2018 without complying with a condition attached to planning permission ref 18/01815/FUL, dated 27 November 2018.
- The condition in dispute is No 2 which states that: *The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered: (00) 3 E and (00) 5 D; received by Hambleton District Council on 4 November 2018; unless otherwise approved in writing by the Local Planning Authority.*
- The reason given for the condition is: *In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies CP1, DP1, CP17, DP32, CP16, NPPF - National Planning Policy Framework and DOMEX – Domestic Extensions SPD Dec 2009.*

Decision

1. The appeal is allowed and permission is granted for an extension to the existing dwelling comprising extended garage and entertainment area above, at The Old Orchard, Cooper Lane, Potto, North Yorkshire DL6 3HQ in accordance with application reference 19/00717/MRC without compliance with condition No 2 previously imposed on planning permission 18/01815/FUL dated 27/11/2018 but subject to the following conditions:
 - 1) The development hereby permitted shall be begun within three years of the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans where applicable: 18011-00-02 – Location Plan, 18011-SPA-00-16 - Floor Plans (Proposed) and 18011-SPA-00-16 - Elevations (Proposed).
 - 3) No above ground construction work shall be undertaken until details/samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

- 4) No part of the existing boundary hedge along the southern boundary of the site shall be uprooted or removed and the hedge shall not be reduced below a height of 2.5 metres; unless otherwise approved in writing by the Local Planning Authority.

Procedural Matters

2. Both the Council and the appellant refer to the drawing showing the proposed floor plans as Plan 15. However, the submitted drawing itself is labelled Plan 16 (18011-SPA-00-16 - Floor Plans (Proposed)). The appellant has confirmed that this was an error and the Council have confirmed that they determined the application with reference to plan 18011-SPA-00-16 - Floor Plans (Proposed). The corrected plan reference is used within my decision.

Main Issues

3. The main issue is the effect of varying condition 2 of permission 18/01815/FUL on the character and appearance of the area.

Reasons

4. This L-shaped bungalow sits somewhat apart from other dwellings in the village having no immediately adjacent neighbouring residential properties. It has an elevated position above the highway being reached from Coopers Lane via a steep driveway leading into a large courtyard area. The property is well screened from public views having fields to the north and west, a public house car park to the south and the highway to the east. It is set back from the highway by a wide grass verge. The verge merges with a mature hedge situated on a raised bankside which, in combination with other adjacent hedges and trees, screens the property.
5. The Domestic Extensions Supplementary Planning Document¹ 2009 recommends that extensions are subordinate to the original dwelling. It however, goes on to say that levels of subservience are dependent on the host property and are judged on their own merits. The consented scheme permits an extension to the side of the existing double garage with construction of an entertainment area above. To achieve this the roof height is raised and the garage reconfigured at ground floor level to provide an additional car space.
6. The condition which is the subject of this appeal relates to the approved plans. In particular, the consented scheme shown within plan Ref 18011 Drawing 03, Rev E includes rooflights on the roof elevation facing the courtyard. The appellant wishes to replace the rooflights with three dormer windows as shown on plans Ref 18011-SPA-00-16 – Floor Plans (Proposed) and 18011-SPA-00-16 – Elevations (Proposed).
7. The roof of the dwelling can be seen from the highway. Although addition of dormer windows would further increase the mass of the roof and its prominence, this would be mitigated by several factors. The host plot size and existing footprint of the dwelling are large and within this context the proposed increase in mass would be less significant. There would also be substantial screening of the proposal by the host property itself and along the property boundaries by the public house and the roadside and adjacent field hedge

¹ Hambleton Local Development Plan Document. Domestic Extensions Supplementary Planning Document. Adopted 22 December 2009.

boundaries in addition to various trees. Views of the property would therefore not be prominent and additionally, there are no adjacent properties to provide a prevailing character or appearance which would make the proposal appear incongruous or out of scale. These factors weigh in favour of the proposal and within the context of the consented scheme, the altered roofscape would have a neutral effect upon the area and not harm the character and appearance of the host property.

8. This proposal would therefore not conflict with CP16, CP17 and DP32 of Hambleton District Council Development Plan Document² 2008 (DPD) which together and amongst other matters seek that development respects the local context, the scale of buildings and spaces.
9. The guidance in the PPG³ makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have no information before me about the status of the conditions imposed on the original planning permission and I have therefore considered all that were applied. I shall use the decision notice as the basis for the conditions within this decision and impose all those that I consider relevant. If some have already been discharged, that is a matter which can be addressed by the parties.
10. The National Planning Policy Framework⁴ makes it clear that conditions should be kept to a minimum and only used when they meet the six tests set out in paragraph 55. Condition 4 of the original consent was applied to ensure that the extension remained as an annex to the dwelling. However, any business use which was not ancillary to the main dwelling, or its use as a separate dwelling, would require planning permission. The condition therefore is not necessary to make the development acceptable in planning terms.
11. In addition to the standard condition regarding the time period for implementation, there is a need for a condition specifying the plans to which this permission relates, in the interests of certainty. Condition 3 refers to the requirement for materials to match the existing in the interests of protecting the character and appearance of the area. Condition 4 refers to retention of the hedge to the south of the property which contributes to the screening of the property from the highway.

Conclusion

12. For the reasons set out above the amended proposal would not affect the character or appearance of the area. Consequently, I shall remove Condition 2 and replace it with a plans condition reflecting the amended plans.
13. The appeal is allowed.

E Symmons

² Hambleton District Council. Local Development Framework Development Plan Document. Adopted 26 February 2008.

³ Use of Planning Conditions. Planning Policy Guidance. Ministry of Housing, Communities and Local Government. Last updated 23 July 2019.

⁴ February 2019.

INSPECTOR