
Appeal Decision

Site visit made on 9 June 2020 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2020

Appeal Ref: APP/E2734/W/20/3247199

30 Plantation Road, Harrogate, HG2 0DB

- 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 Mrs Nicola Buxton against the decision of Harrogate Borough Council.
 - The application Ref 19/03530/FUL, dated 20 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is erection of 1no dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The Harrogate District Local Plan 2014-2035 (HDLP), which was in draft at the time the Council refused planning permission, was formally adopted on 4 March 2020. This replaces both the Harrogate District Local Plan (2001, as altered 2004) and the Harrogate District Core Strategy (2009). I have therefore determined the appeal having regard to the relevant policies within the HDLP. Both parties have referenced the new policy position in their statements and are not therefore prejudiced by my consideration of the appeal against them .
4. The Council initially refused the application with four reasons but have since withdrawn their objection to the proposal on the basis of insufficient information pertaining to ecological impacts of the proposed development.
5. The appellant submitted amended plans with their appeal statement. These plans include a rearranged internal layout and arrangement of fenestration. I have been asked to determine this appeal on the basis of these plans. I understand they were not originally submitted to the Council for consideration and the application was determined on the basis of the original plans.
6. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a

fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1).

7. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]) and whether any prejudice would occur. Third parties may not be aware of the amended scheme and, for that reason, I consider that they would be prejudiced if I determined this appeal on the basis of those plans. Accordingly, I have determined this appeal on the basis of the plans originally submitted with the planning application, on which the Council made its decision.

Main Issues

8. Therefore, the main issues in this case are as follows;

- Whether the proposal would provide satisfactory living conditions for future occupiers of the proposed dwelling with particular regard to the provision of light to the dwelling and the outdoor space ; and
- The effect of the proposal on the character and appearance of the area, in particular on the Pinewoods Special Landscape Area, and having regard to the impact of the development on trees.

Reasons

Living conditions of future occupiers

9. The appeal site comprises a parcel of land located to the rear of both Plantation Road and Plantation Avenue, which consist of two-storey terraced properties. There is direct access from the rear garden of 30 Plantation Road and the land is bound by the Pinewoods woodland and access tracks to both aforementioned streets. The site currently contains an outbuilding, which is proposed to be removed to facilitate the proposed dwelling, and a greenhouse.
10. The proposal involves the erection of a single-storey, L-shaped dwelling with a new vehicular access and parking space provided off Plantation Avenue. The site area is limited and of an irregular shape. As a result, the dwelling would occupy a large proportion of the available space, while substantial trees also overhang the boundary.
11. I note the submitted Shade Assessment, which demonstrates the level and direction of shade created by trees. The assessment states that 50% of the entire garden would be in shade during the day in summer (mid-March to mid-September), while significant shading of the dwelling would occur in the early morning of the summer months (early April to early September) and up to 25% of the dwelling would experience shade from May to early August in the late evening.
12. The Shade Assessment shows only shading at one reference point; 12:00pm on March 21st. It is limited to a time when the sun would be at its highest point of that day, while shadows would be at their shortest. There is no information as to the level of shade during other times of the day and through the year when

the sun is lower in the sky. While there would be no shading caused by those trees to the north, at the time of my site visit (late morning) I observed approximately half of the plot to be in shade, cast by the large trees to the east. This would cause the east elevation of the building and garden area on this side to suffer from significant shading for the periods outlined. Given the majority of fenestration is concentrated upon the east and north elevations, and the relatively small garden area, I am unconvinced that the proposal would allow for sufficient levels of sunlight for prospective future occupiers.

13. Furthermore, the presence of the substantial trees to the north and east so close to the proposed location of the dwelling already reduces the level of daylight reaching the site from these directions. It has been mentioned in third party responses that these trees have recently been lopped and pruned, which would suggest this is already an issue. Whilst I acknowledge that the trees may have been pruned in the interests of good tree management, I am unconvinced on the basis of the evidence before me, that the proposal would provide a satisfactory living environment.
14. My attention is drawn to an extension approved at the appeal site¹ for which the appellant claims the living conditions of the occupier was not considered. However, while I have no details of the application, I note this predates the adoption of the HDLP and in any event it would appear that the development is not directly comparable with the one before me which, in any event, has been assessed on its own merits.
15. Consequently, based on all I have seen and read, the proposal would not provide satisfactory living conditions for occupiers of the proposed dwelling in terms of light. On that basis I conclude that the proposal does not accord with Policy HP4 of the HDLP, which requires that development proposals are designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers.

Character and appearance of the area

16. The appellant states there is no requirement for the removal of any trees to facilitate the construction of the building. I note the comments of the Council Tree Officer in the Council's appeal statement who concurs and I have no reason to disagree.
17. However, while this may be the case during the construction period, given the substandard living conditions I have identified, the size and proximity of the trees means there is likely to be increased pressure from future occupants of the dwelling to have trees removed in order to improve daylight to the windows and external amenity areas. In addition, there is likely to be practical concerns concerning removal of leaves or other debris which fall. This would appear more likely when considering that the proposed parking space lies directly under large trees.
18. While the Council are the owners of these trees and would therefore be required to give permission before any are removed, a future resident seeking to remove trees would be difficult for the Council to resist, particularly where matters of safety or property damage are raised. Whilst I acknowledge that these are hypothetical concerns at this stage, I note that a number of trees

¹ 18/02029/FUL

have been pruned back since the application was made and, given the significant issues arising from the proximity of the trees as outlined above, the matter carries significant weight against the proposal.

19. Furthermore, Pinewoods is designated as a Special Landscape Area (SLA) within Policy NE4 of the HDLP. This policy highlights the importance of those landscapes and their high sensitivity to inappropriate development which would adversely impact on the quality of the area designated. Development proposals within these SLAs should avoid significant loss of key characteristics that contribute to the quality of the designation.
20. I have concluded the proposal would be likely to increase pressure to fell trees should the site's use intensify with the construction of a dwelling. Policy NE4 of the HDLP is clear in requiring that development proposals protect and/or enhance the landscapes of the area. Therefore, given the likelihood of trees being felled, and that trees contribute significantly to the special quality of the designation, the development would cause harm to the SLA.
21. To conclude on this second main issue, the proposal would therefore fail to comply with the requirements of Policy NE4 the HDLP. It would also be contrary to NE7, which states new development should be designed to ensure a satisfactory relationship between buildings and new and existing trees, which both safeguards the future health of the trees and avoids unacceptable impacts on residential amenity.

Recommendation

22. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR