
Appeal Decision

Site visit made on 23 September 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2020

Appeal Ref: APP/E2734/W/20/3254956
74 Duchy Road, Harrogate HG1 2EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr and Mrs Henderson against the decision of Harrogate Borough Council.
 - The application Ref 20/00433/FUL, dated 30 January 2020, was refused by notice dated 20 May 2020.
 - The development proposed is described as the erection of a single storey dwelling with integral car parking for 2 No. vehicles, associated external works and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would conform to the Council's Growth Strategy;
 - The effect of the proposed development upon the character and appearance of the Harrogate Conservation Area by virtue of its footprint, design and form; and
 - The effect of the proposed development upon the living conditions of the current and future occupants of 72 Duchy Road with particular regard to sunlight and privacy in the rear garden.

Reasons

Growth Strategy

3. The proposed development comprises a single storey detached T-shaped dwelling with a mezzanine floor, located on an area of garden land to the rear of 74 and 76 Duchy Road in Harrogate. Council policy encourages residential development within the principal settlements of Harrogate, Ripon and Knaresborough.
4. Being within the urban confines the proposed development would be concordant with the growth strategy so long as it complies with other relevant policies of the Harrogate District Local Plan 2014-2035 2020 (LP). These include policies concerning the character and appearance of the area and the living conditions of current and future neighbouring occupants. Only once those

matters have been considered will it be possible to determine whether the proposed development would conform to the Council's policy on growth strategy.

Character and Appearance

5. Duchy Road runs parallel with Kent Road and most of the dwellings along both have deep rear gardens which collectively provide a long, largely uninterrupted green corridor (or 'courtyard') surrounded in the main by large, established 3 and 4 storey dwellings.
6. The site sits within the Harrogate Conservation Area. Under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') there is a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
7. The appeal proposal would be built in the form of a low-profile pavilion which is contended to be sympathetic to the style of ancillary buildings found in backland areas within what is known as the Duchy. It would be orientated to run with the grain of the long back garden which slopes gently downward in the direction of the residences along Kent Road. The walls would be made of course natural stone and the roof would use natural slates. A semi-derelict redundant structure would be removed as would a small number of trees.
8. The dwelling would have a footprint measuring 294 square metres and would occupy around 18% of the plot. However, it should be noted that the plot shown on 'Location Plan Drawing No. PI-01' dated 29 January 2020 has the shape of a square handled grill pan and includes the lane linking to Duchy Road. Consequently, were the lane to be removed from the site (since it cannot be built upon) the plot ratio would be a little higher than 18%.
9. In May 2018 planning permission was granted for a 3-storey coach house style detached dwelling on a plot to the rear of No 76¹. The dwelling had a footprint of 107 square metres and sat on a plot measuring 1384 square metres. That planning permission is still extant, and there is a significant likelihood that it would be implemented if the appeal proposal were not allowed.
10. A rectangular shaped area was to be retained as garden for the enjoyment of the occupants of No 74. This gave a plot ratio for the 2018 permission of 8% although, again, it is assumed that the site included the panhandle lane so slightly understating the figure for the garden area alone.
11. Comparisons between the plot ratio of the proposed development and other properties in the Duchy are rather spurious since they do not take account of the scheme's intended location in what is essentially an open area of garden land. Notwithstanding that, however, it should be noted that the proposed dwelling sits within a large site due to the incorporation of the neighbouring garden area and thus, despite its large footprint, has a relatively modest plot ratio.
12. The coach house scheme approved in 2018 is taller than the appeal proposal but not enormously so. The ridge of the roof would be 6.29 metres above the highest point on the site (with eaves at 4.33 metres above the corresponding point) whereas the ridge of the current proposal would be 4.93 metres above

¹ Ref 18/00658/FUL

the land high point (with eaves at 2.82 metres above the corresponding point). However, the appeal proposal would have a development footprint almost 2.8 times the size of the 2018 coach house scheme.

13. The approved 2018 scheme would be more visible than the appeal proposal when viewed from the end of the access lane on Duchy Road. Furthermore, proposed cherry laurel evergreen hedging would reduce the visual effect such that at some point reasonably soon the appeal proposal would be virtually invisible to the passer-by.
14. However, by virtue of its location close to the middle of the wide corridor of back gardens (or the courtyard), the appeal site can be clearly seen from the rear and sides of several dwellings along Duchy Road and Kent Road. According to the Harrogate Conservation Area Character Appraisal 2020 one of the qualities which distinguishes the Duchy Area from other parts of the town is its low density of development.
15. This low density is explained by the large size of many of the private gardens within the vicinity. Thus, these gardens, such as those to the rear of Duchy Road and Kent Road provide an important component of the area's character.
16. Both of the main parties agree that outbuildings are found on back lands within the wider Duchy area, although they differ over what form these generally take. Since I was not directed to any local examples, I have not been able to make a judgement as to whether they are usually in the form of low-level pavilions, as with the appeal proposal, or taller coach houses such as that allowed under the extant 2018 permission.
17. The proposed dwelling would be around 28 metres long, which constitutes about three-quarters of the length of the garden. Seen from above it would represent a near impenetrable barrier across the green corridor rather than the more modest narrowing caused by the 2018 coach house scheme.
18. It would be around 12-14 metres in width along the top of the 'T'. Following pre-application discussions, a wing towards the front was removed. A reasonable level of screening would be provided by surrounding fruit trees and some evergreen hedges but in the autumn and winter months the development would be very conspicuous from the surrounding dwellings. Moreover, because of the mezzanine floor the dwelling would still be almost 5 metres in height notwithstanding its single storey design. Therefore, it would also have a considerable 3-dimensional bulk as well as undoubted 2-dimensionable spread.
19. Consequently, the proposal would harm the character and appearance of the garden areas to the rear of Duchy Road and Kent Road and would, therefore, cause substantial harm to the Harrogate Conservation Area as a whole. It follows from this that the proposal would fail to meet the test set out in s.72 of the Act and in Policy HP2 of the LP. Furthermore, it would fail to respect the spatial quality of the neighbourhood and the important spaces between buildings, conflicting with the purpose of Policy HP3 of the LP.
20. In addition, it would fail to comply with the advice set out in paragraph 195 of the National Planning Policy Framework (the Framework) that development should not cause substantial harm to a designated heritage asset. Finally, it would not comply with the guidance set out in the Harrogate District Heritage

Management Guidance Supplementary Planning Document 2014 in regard to understanding context.

Living Conditions

21. The proposed dwelling would run parallel to the boundary of the rear garden of No 72. That boundary is comprised of a mature hedge measuring around 2 metres in height punctuated at intervals with mature trees. The extant 2018 coach house planning permission would be located about 5-6 metres further away from this boundary than the current appeal. Although this scheme was closer to the boundary of the garden of No 74 than the appeal proposal is to the boundary of No 72 the Council is not prevented from raising concerns about the possible overshadowing effect of the current scheme.
22. As a consequence of its position the proposed dwelling would cause a shadowing effect over most of the length of the rear garden of No 72 during summer evenings. At present, as shown in the Appellant's sun path analysis, there will be some shadow caused by the hedge and by the mature trees. Three mature trees close to the garden boundary with No 72 are scheduled to be removed.
23. However, the hedge has some visual porosity such that it does not completely screen views into the neighbouring garden. Although the trees do produce a shadowing effect this would be limited due to their small number. It would be possible for the occupants to relocate from one part of the garden to another to avoid this overshadowing effect.
24. On balance, there would be some loss of sunlight caused by the proposed development. However, it is likely that the existing vegetation causes a significant loss of sunlight during the summer evenings. Consequently, the net loss of sunlight caused by the proposed dwelling would not be substantial.
25. The ground floor of the proposed dwelling would include several openings, including a pair of French doors, along its length looking eastward in the direction of the rear garden of No 72. It would be possible to see occupants of No 72 sitting in their garden during the summer. However, the proposal includes the planting of 4 new trees to offset those that are to be removed. This would help restore the lost privacy which, overall, would not be significant.
26. For the reasons set out above the development proposal would not harm the living conditions of the current and future occupants of No 72. Thus, the proposal would accord with Policy HP4 of the LP which seeks to ensure that new development would not result in a significant adverse impact on neighbours through loss of privacy or loss of sunlight.
27. Finally, it would accord with Paragraph 127f) of the Framework which advises that new development should provide a high standard of living conditions for current and future occupants.

Planning Balance and Conclusion

28. The proposed development would cause substantial harm to the character and appearance of the Harrogate Conservation Area as a whole. Consequently, it would also fail to comply with the Council's growth strategy as discussed under the first main issue. Whilst it would not adversely harm the living conditions of the current and future occupants of No 72 this is of neutral effect and therefore does not offset the harm to the growth strategy or to the character and appearance of the Harrogate Conservation Area.

29. For these reasons the appeal should be dismissed.

William Walton

INSPECTOR