The Planning Inspectorate

# Appeal Decision

Site visit made on 3 February 2021

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

**an Inspector appointed by the Secretary of State**

**Decision date: 25th February 2021**

**Appeal Ref: APP/E2734/W/20/3261699**
**Land to the rear of 195 Wetherby Road, Harrogate**

- 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 Ian Harrington (Fisch Developments) against the decision of Harrogate Borough Council.
- The application Ref 20/01382/FUL, dated 22 April 2020, was refused by notice dated 15 September 2020.
- The development proposed is described as the erection of one dwelling and associated access on land to the rear of 195 Wetherby Road, Harrogate.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The name of the appellant was not provided on the planning application form and so the name given on the appeal form has been used instead.

## Main Issues

3. The main issues are the effect that the proposed development would have on:

    - The character and the appearance of the area; and
    - The living conditions of neighbours, in particular those residing at 20 Rudbeck Crescent.

## Reasons

*Character and Appearance*

4. The site is located close to the junction of Wetherby Road and Rudbeck Drive on the eastern side of Harrogate. It forms part of the rear garden of 195 Wetherby Road ('No.195') but would be accessed from Rudbeck Drive. The relevant section of the northern side of Wetherby Road and Rudbeck Drive is an established residential area.

5. The proposed development comprises the erection of a detached, 2-storey, 4-bedroom brick-built family dwelling with a slate roof and an attached single-garage within the rear half of the back garden of No. 195. Like the neighbouring properties it would face forward to the road.

6. Most of the dwellings in Rudbeck Drive are relatively modest sized semi-detached houses and bungalows, notwithstanding some small-scale dormer

extensions, on relatively modest sized plots. There are, however, at least 2 larger detached dwellings along Rudbeck Crescent (nos. 20 and 29) to the rear of the appeal site. Furthermore, the host dwelling is a detached property and relatively large compared to most of those not far away along Rudbeck Drive.

7. The proposed dwelling would occupy a plot of similar size to many of those within the vicinity, taking up about one-third of the area. Following amendments to the scheme, the proposal has been slightly reduced in height through a lowering of the internal floor and ridge height. In addition, the pitch of the roof has also been reduced to produce a gentler profile.

8. However, the gross internal floor area has remained unchanged. It would be around 25% larger than the recently approved extended version of the host dwelling on Wetherby Road. It would be considerably larger than most of the dwellings along Rudbeck Drive.

9. The Council does not define the term 'cramped' in any of its policy documents. However, it refers to the 'scale, appearance and use of spaces about and between buildings' in Policy HP3 of the Harrogate District Local Plan 2014-2035 2020 ('the LP'). Within a discretionary planning system, planning officers and other decision makers are required to exercise their judgement to determine whether the scale of a proposed development would be appropriate for the size of the plot and the neighbouring area. Such concerns apply in all cases irrespective of whether the area is subject to a protective designation or not. The area subject to this appeal is not subject to any protective designation.

10. No. 195 is a large corner plot. However, that does not necessarily mean that it would be large enough to accommodate a substantial family dwelling in addition to the existing house without damaging the character and the appearance of the neighbouring area. Notwithstanding the amendments to the design, which in any event would seem to be relatively modest, the proposed development would still be too large and bulky for the size of the site.

11. It would sit very close to the boundary fence with No.20 Rudbeck Crescent ('No.20') and so appear confined and constrained. Whilst there is scope for some landscaping around the edges of the site the development would still be readily visible to those passing the proposed driveway entrance on Rudbeck Drive.

12. For these reasons, the proposed development would be unduly cramped and would not sit comfortably within the site. It would jar with the neighbouring dwellings and would be a discordant feature within the streetscene. Consequently, it would fail to accord with Policy HP3(A-B) of the LP which seeks to encourage development that would protect, enhance or reinforce the character of the existing urban landscape, respect the spatial qualities of the area in regard to the scale of development and the spaces between buildings and respect the building density and the grain of the area.

13. In addition, it would fail to accord with the advice set out in Paragraphs 127c-d) and 130 of the National Planning Policy Framework ('the Framework') that new development should create a strong sense of place and be well designed.

*Living Conditions*

14. The proposed dwelling would be quite close to the rear elevation of No. 6 Rudbeck Drive ('No.6') and the rear and side elevations of No.20 which are, in part, either side of the appeal site. A solid wooden fence measuring around 2 metres in height separates the appeal site from these properties.

15. No. 20 is a 2-storey detached dwelling with what appears to be a single storey side extension close to the boundary of the appeal site. The proposed dwelling would be diagonally opposite. The side-elevation of the extension has 2 windows. There are also ground floor windows facing the back garden, including what appears to be a small sunroom projecting out slightly from the rear elevation.

16. The proposed dwelling would be around 6 metres from the windows on the side elevation of No. 20 and around 10 metres from the windows of the sunroom. Notwithstanding the revisions to the plans, the occupants of No.20 maintained an objection to the proposal.

17. By virtue of its location very close to the boundary fence the appeal dwelling would result in a loss of outlook from the rear facing windows of No. 20 towards the west. Nevertheless, the occupants would retain their outlook south towards the rear of the properties along Wetherby Road. Overall, the loss of outlook would not be unacceptable. However, the development would produce a sense of enclosure and confinement within the back garden at No.20 which would harm the living conditions of the occupants.

18. Furthermore, because of both its large size and its position the proposed dwelling would block much of the sunlight to the rear facing windows, the sunroom and the garden of No. 20 during the late afternoons in the summer months. This would deprive the occupants of No. 20 of much of the enjoyment derived from sitting in the sunroom or outside during the summer evenings. Given that this is a time in the day when adults will often spend relaxing outside this would result in an unacceptable loss of living conditions for the occupants of No. 20.

19. Loss of privacy did not form part of the Council's reason for refusal. However, for the avoidance of doubt, there would be no habitable rooms with windows along the side elevation at first-floor level overlooking the rear garden of No. 20. There would, however, be 2 obscured glazed windows in the bathrooms facing that direction. Whilst even frosted bathroom windows can give the sense of being overlooked there would be no loss of privacy to the occupants No. 20.

20. As the angle between the windows in bedrooms 3 and 4 of the proposed dwelling and the end windows on the side extension of No.20 would probably exceed 45-degrees the development would not result in the loss of privacy for the occupants of either dwelling. The existing wooden fence would prevent any intervisibility between the ground floor windows of the dwellings.

21. The proposed dwelling would be around 10 metres from No. 6. In addition to the solid wooden fence there are also some trees and shrubs that have been retained along the boundary. This has meant that No. 6 has a more secluded quality in relation to the appeal site than No. 20. The proposed development would result in some loss of outlook from the rear of No. 6 but not so much

that would significantly harm the living conditions of the current and future occupants.

22. Because of the sense of enclosure and the loss of summer evening sunlight caused by overshadowing the proposed development would result in an unacceptable loss of living conditions to the current and future occupants of No. 20. This would therefore fail to accord with Policy HP4(B) of the LP which seeks to ensure that new development would not be significantly overbearing and would not cause an unacceptable loss of sunlight.

23. Moreover, it would also fail to accord with the advice set out at Paragraph 127f) of the Framework that new development should provide for a high quality of living conditions of neighbours.

**Other Matters**

24. The proposed development would be close to public transport routes, local shops and other facilities and therefore accord with relevant provisions of the Framework. It would contribute to meeting the Council's housing needs and so would accord with Policies GS1, GS2 and GS3 of the LP. A larger dwelling would help accommodate a family and contribute to the area's housing mix in line with Paragraph 61 of the Framework. These are planning benefits which must be considered.

**Planning Balance and Conclusion**

25. The proposed development would result in a more efficient use of land in a location within Harrogate's urban envelope with good access to facilities to meet day-to-day needs. It would also add to the area's housing mix.

26. However, it would cause substantial harm to the character and the appearance of the area and the living conditions of those residing at No. 20. These harms would conflict with fundamental principles within the Development Plan and the Framework. For these reasons, the appeal should be dismissed.

*William Walton*

INSPECTOR