



Appeal Decision

Site visits made on 4 February 2021 and 24 February 2021

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

an Inspector appointed by the Secretary of State

Decision date: 17th March 2021

Appeal Ref: APP/E2734/W/20/3261221

60 Kent Road, Harrogate HG1 2EU

- 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 Steve Johnson c/o Dsign House Architecture Ltd, against the decision of Harrogate Borough Council.
 - The application Ref 20/00674/FUL, dated 19 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the erection of a new dwelling.
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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 and 60 Kent Road, an undesignated heritage asset, by virtue of its siting, scale, mass and design; and
 - The effect of the proposed development upon the living conditions of the current and future occupants of 60A Kent Road and 60 Kent Road with particular regard, respectively, to overlook and the provision of outdoor space.

Reasons

Growth Strategy

3. The proposed 5-bedroom dwelling would sit within the garden of 60 Kent Road ('No. 60') in the area of Harrogate known as 'The Duchy'. 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. The site sits within the Harrogate Conservation Area ('the Conservation Area'). Under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
6. Kent Road generally comprises large, established detached residential properties set within large, mature gardens. As a result, development densities across the Duchy are generally low. Most of the dwellings are well set back from the road and are screened to varying degrees by mature hedges, tall shrubs and large trees.
7. Some new dwellings have been built within the grounds of some of the properties along Kent Road and in other parts of the Duchy. For example, a large 4-storey high flatted development known as Brackenwood has been built within the grounds of 58 Kent Road, which neighbours No.60. Despite some new developments, however, the Conservation Area has undoubtedly retained most of its integral characteristics and its historical qualities.
8. No. 60 is a very large detached dwelling containing at least 3 storeys and situated in a large plot. The dwelling is built in the arts and crafts style. It includes a distinctive verandah at ground floor level which lends it a colonial quality. The dwelling is accessed by a double entrance semi-circular driveway which is an important and distinctive feature of its design and its setting. The dwelling has been split into 6 flats.
9. The large garden to the front and side of No.60 is very established and contains several large trees and mature shrubs. By virtue of its size and its maturity it is an integral aspect of the dwelling. The garden is separated from Kent Road by a stone wall and a thick hedge.
10. No.60 is listed in the Council's Harrogate Conservation Area Character Appraisal 2010 ('HCACA') as a Building of Local Interest and Merit. The National Planning Policy Framework ('the Framework') advises that when determining an application that might have a direct or indirect effect on an undesignated heritage asset a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. By virtue of its scale, its design, its appearance and its setting No.60 makes a significant contribution to the neighbouring area.
11. To the rear of No.60 is a former coach house which has been converted into a dwelling. In addition to this dwelling there is also a bungalow (60A Kent Road or 'No.60A') which sits within the plot just behind and to the side of No.60. No.60A is accessed via a lane running between the No.60 and 62 Kent Road ('No.62'). Because the plot slopes downwards from front to back and because of the distance from the respective lane entrances neither the former coach house nor No.60A is easily noticeable from Kent Road.
12. The proposed dwelling would be built within the garden area situated between the access lane to No.60A and No.60. There would be minimal loss of any trees meaning that the proposal would accord with Policies NE3, NE4 and NE7 of the

Harrogate District Local Plan 2014-2035 2020 (LP) which seek to ensure that new development does not harm the ecology, landscape or the landscape character of the area.

13. It would be set back from Kent Road and would respect the building line in between No.60 and No.62. Access would be taken from the western entrance and the development would sever the semi-circular driveway. Whilst this would not constitute a traffic hazard it would transform and harm the setting of No.60.
14. The first-floor side elevations of the proposed dwelling would be about 12 metres from No. 60 and about 17 metres from No. 62. Through excavation the dwelling would be built into the slope and from Kent Road would appear as a single storey structure.
15. The proposed dwelling would be designed to appear as a garden building subservient to No.60. It would incorporate an internal courtyard for borrowed light. The construction materials would include vertical timber framing with render, and vertical opening windows with aluminium frames. The rear elevation would be largely composed of glass. Access to the front door would be via a wheelchair compatible ramp.
16. The roof would be constructed of composite alloy which would produce a green hue to reflect the colours of the Westmorland slate roof of No.60. Garage parking would be provided on the lower ground floor with vehicular access from the front via a platform lift.
17. A living green roof would cover the lower ground floor. Heat loss from the dwelling would be minimised through triple glazed argon filled window units. These qualities would accord with Policy CC4(B) of the LP which seeks to encourage new development that incorporates passive design measures that reduce the need for artificial heating.
18. The design would incorporate both traditional and modern elements. However, it would not compliment either No.60 or its neighbour, No.62, which also incorporates arts and crafts design elements. It would look incongruous and out of place.
19. The ridge of the pitched roof of the proposed dwelling would sit quite low. It would be at about the mid-point between floor and ceiling of the first floor of No.60. However, whilst it would only be marginally more elevated than the top of the hedge bounding the front of the property it would nevertheless be readily visible to those walking along the opposite side of Kent Road.
20. The proposed dwelling would be also very visible from both driveway entrances to No.60. From these vantage points the new structure would fill much of the garden to the side of No.60 resulting in both dwellings appearing to be cramped and uncomfortable within their respective settings.
21. The loss of an important area of garden to the side of the dwelling, together with the severance of its semi-circular driveway, would significantly harm the setting of No.60. Consequently, it would fail to preserve or enhance the character and appearance of the Conservation Area.
22. For the above reasons the proposal would fail to accord with Policy HP2 of the LP which seeks to ensure that developments affecting the setting of a heritage

asset / conservation area protect or enhance those features that contribute to its architectural interest unless the proposal serves an overriding public interest. In this instance, there is no such overriding public interest. The host building (No.60) is not dependent upon the development proposal for its conservation.

23. The development proposal would also fail to accord with Policy HP3 of the LP which requires new development to respect the spatial qualities of the local area including the use of spaces about and between buildings, and the vistas of them.
24. Furthermore, by increasing the level of density on the plot of No.60 the proposal would fail to respect the low-density quality recognised in the HCACA as helping to define the character of the Duchy Conservation Area. Although this document is over 10 years old the principles which it articulates are still highly relevant notwithstanding the changes that have taken place in the area. Accordingly, it is given considerable weight.
25. Finally, the proposal would fail to accord with Paragraphs 196 and 197 of the Framework since it would not produce a public benefit outweighing the harm to the Conservation Area and it would cause significant harm to the setting of a non-designated heritage asset (No.60).

Living Conditions

26. The proposed dwelling would sit in front of, and about 2 metres above, No.60A. It would be about 7-8 metres from the rear boundary separating the 2 properties. This boundary is currently defined by a tall, thick hedge. The rear elevation of the proposed dwelling and the front elevation of No.60A would be about 24 metres apart.
27. Although the development would involve some significant excavation work to reduce the ground levels and so ensure a lower roof profile most of the boundary hedge and other shrubs would be retained, with new shrubs added.
28. A kitchen-dining-family-living room would be on the first floor of the proposed dwelling and would face to the rear towards No.60A. The Council's House Extensions and Garages Design Guide Supplementary Planning Document 2005 advises that first floor living room windows should not be closer than 12 metres to the boundary of an adjacent dwelling. Notwithstanding changes to permitted development rights this document, which was subject to extensive consultation, is accorded considerable weight.
29. The elevational advantage of the proposed dwelling combined with the large windows means that there would be a possibility of overlooking No.60A. However, the retention of the high hedge and the level of separation between the 2 dwellings means that this harm would be avoided.
30. The plot for the proposed dwelling constitutes quite a large proportion of the garden that is currently available to occupants of the 6 flats within No.60. There is not any significant area of garden available to the rear of No.60 which is where the former coach house and No.60A are located. Consequently, the development proposal would mean that the only substantial area of garden for occupants of No.60 would be to the front. This area would not be sufficiently large to meet the needs of up to 6 groups of occupants.

31. Due to the loss of garden space the development proposal would fail to provide for the satisfactory living conditions of current and future occupants of the flats within No.60. Consequently, it would fail to accord with Policy HP4 of the LP which requires new development to incorporate communal outdoor space of adequate size for the likely occupants of the dwellings.
32. Furthermore, it would fail to accord with Paragraph 127f) of the Framework which advises that new development should provide for a high level of living conditions for current and future occupants.

Other Matters

33. The proposed dwelling would be close to local bus routes and within walking distance of many facilities. This would accord with Policy TI1 of the LP which seeks to minimise use of the private car and encourage more sustainable forms of mobility. It would also have sufficient car parking space to avoid on-street parking and so comply with Policy TI13 of the LP. It would not constitute a flood risk to itself or to other properties and therefore would accord with Policy CC1 of the LP.
34. Whilst the proposal would make efficient use of land it would do so only by conflicting with important Development Plan and Framework policies as already set out in this Decision Letter. Thus, the attainment of efficiency would be at an unacceptable cost.
35. Finally, the proposal would contribute an extra dwelling to the housing stock. However, there is no housing land shortage in the district and the local plan is up to date. Thus, Paragraph 11 of the Framework is not triggered.

Planning Balance and Conclusion

36. Because of its limited scale the development proposal would accord with Policy GS2 of the Council's Growth Strategy. Furthermore, it would accord with Policies NE3, NE4, NE7, CC1, CC4(B), TI1 and TI13 of the LP. These are findings that, to varying degrees, support the proposal.
37. However, it would harm the character and appearance of the Conservation Area and No.60, which is an undesignated heritage asset. Furthermore, it would fail to provide for the satisfactory living conditions of the current and future occupants of No.60. It would also fail to accord with Policy GS3(C-D) of the Growth Strategy component of the LP which advises that new development should respect the setting of heritage assets and the character and appearance of the settlement.
38. Notwithstanding that the proposal accords with elements of the Development Plan and the Framework, this is considerably outweighed by conflicts with Development Plan and Framework policies in respect of the character and appearance of the Conservation Area, the character and appearance of No. 60 and the living conditions of the occupants of No.60.
39. For the above reasons the appeal should be dismissed.

William Walton

INSPECTOR