



Appeal Decision

Site visit made on 6 April 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2022

Appeal Ref: APP/C2741/W/21/3290004

23 New Lane, Huntington, York YO32 9NR

- 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 David Dawson against the decision of City of York Council.
 - The application Ref 21/02264/FUL, dated 7 October 2021, was refused by notice dated 29 November 2021.
 - The application sought planning permission for erection of dwelling to rear utilising existing extended access to 23 New Lane without complying with a condition attached to planning permission Ref 20/01985/FUL, dated 2 August 2021.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following plans:- Full Planning Package Revision B dated 24 06 2021.
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.
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Decision

1. The appeal is allowed and the planning permission Ref 21/02264/FUL for variation of condition 2 of permitted application 20/01985/FUL to change roof from hipped to gabled on front north elevation at 23 New Lane, York YO32 9NR granted on 29 November 2021 by City of York Council, is varied by deleting condition No 2 and substituting it with the condition found in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed gable roof on the living conditions of occupants at 26 Woodland Way.

Reasons

3. The appeal relates to a planning permission granted to erect a three-bedroom detached bungalow in the rear garden of 23 New Lane. It is proposed to change the approved hipped roof to a gable roof on the north-facing elevation. No new bedrooms or window openings would be formed as a result.
4. The rear elevation of No. 26 has been extended or altered but has habitable room windows at ground and first floors that have an outlook into a private rear garden. Due to the layout of the bungalows on Woodland Way, and the intervening tall boundary fence, the new dwelling's roof form would be the most visible aspect of it to neighbouring occupants.
5. However, the orientation of No. 26 means that the proposed gable roof would be at an angle from the ground and first floor rooms. The gable roof would be

of a greater massing and 'square off' the end of the roof, but the roof pitch would angle away from No 26 and its south-westerly garden whilst the ridge line would be no higher than that previously approved. When the change is considered with the remainder of the new dwelling, I do not consider that it would lead to an unacceptable outlook for the occupants of No. 26, be oppressive or affect their enjoyment of their garden. Hence, the proposal would function well over the lifetime of the development.

6. Given the variety of dwelling types and roof forms locally the proposal would not be harmful to the character and appearance of the area. Nor would the proposal harm the living conditions of occupants in 21 and 23 New Lane due to the spacing around each and their orientation.
7. I conclude that the proposed gable roof would not have a harmful effect on the living conditions of occupants at 26 Woodland Way. Subject to deleting the original worded condition and replacing it with one that refers to the proposed plans, the condition satisfies the six tests. Therefore, the proposal would accord with Policies GP1 and GP10 of the City of York Draft Local Plan Incorporating the 4th Set of Changes. These jointly seek new development to be of a scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area so that neighbouring residents are not unduly affected by or dominated by overbearing structures.
8. The proposal would also comply with emerging Policy D1 of the City of York Local Plan – Publication Draft February 2018 (Regulation 19 Consultation), though this attracts limited weight due to its current progress; and paragraph 130 a) and f) of the National Planning Policy Framework. Jointly, these seek, among other things, development to not to dominate other buildings and spaces so that they function well over the lifetime of the development and create places with a high standard of amenity for existing users.

Conditions

9. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. If some have in fact been discharged, that is a matter which can be addressed by the parties.
10. A plans condition is necessary in the interests of certainty. A materials condition would ensure a harmonious development. Conditions about drainage works and efficient use of water are necessary in the interests of securing satisfactory means of drainage and consumption of water. Conditions to secure an electric vehicle charge point and cycle parking provision are necessary to promote the use of sustainable modes of travel. Conditions about external surfacing, turning areas and car parking are necessary to ensure vehicles can enter and leave the site in forward gear. Permitted development restrictions are necessary to control upward extensions and window or door openings so that neighbouring occupants' living conditions are not unduly affected. For the same reason a condition to ensure obscure glazing is used for the roof light in the east-facing roof slope is necessary. To prevent obstruction to other highway users, a condition is necessary so that no barrier or gate to the vehicular access is erected within 5 metres of the verge to the site.

Conclusion

11. For the reasons given above, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but replace it with another and restate those undisputed conditions that are still subsisting and capable of taking effect.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development shall be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: 1:1250 Location Plan; 001; 002; 003; and 006.
- 3) The external materials of the new dwelling shall be: Brickwork - Ibstock 'Hardwick Minster sandstone mixture 2418. Roof tiles - Sandtoft Olympus clay tiles. Windows - Double glazed white Upvc.
- 4) The additional surfacing shall be formed of brick paving that shall be porous or otherwise drain into the approved attenuated drainage scheme.
- 5) The building shall be constructed in accordance with the following sustainability submissions: Condition 6 letter dated 15 April 2021, Regulations Compliance Report dated 15 April 2021, and Part G Water Calculations 16 April 2021.
- 6) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, AA and B of Schedule 2 Part 1 of that Order shall not be erected or constructed.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) no windows or other openings shall be created in the side elevations of the approved dwelling (including the roof slopes) other than those shown on the approved plans.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) the roof light in the east facing roof slope shall be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and shall be thus maintained as such thereafter.
- 9) The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with approved details, and these areas shall not be used for any purpose other than the parking of cycles.

- 10) No part of the site shall come into use until turning areas and car parking have been provided in accordance with the approved details. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.
- 11) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), no barrier or gate to any vehicular access shall be erected within 5m of the rear of the verge abutting the site, without the prior written approval of the local planning authority and shall at no time open towards the public highway.
- 12) The drainage works shall be undertaken in accordance with the details shown on Drainage Design Drawing YH803/1H received by the local planning authority on 12 July 2021.
- 13) The site shall be developed with separate systems of drainage for foul and surface water on and off site. Surface water shall be restricted to a maximum of 1.0 litre per second, to the public surface water sewerage network.
- 14) The development should incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A) within the parking area if desired. The applicant should identify the proposed location for a future Electric Vehicle Recharge Point within the development curtilage and ensure that any necessary trunking/ducting is in place to enable cables to be run to the specified location.

END OF SCHEDULE