



Appeal Decision

Site visit made on 4 April 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2022

Appeal Ref: APP/H2733/W/21/3286971

**Osgodby House, 75 Osgodby Lane, Scarborough, North Yorkshire,
YO11 3QD**

- 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 Rosa Stubbs against the decision of Scarborough Borough Council.
 - The application Ref 21/01885/FL, dated 29 July 2021, was refused by notice dated 1 October 2021.
 - The development proposed was originally described as a new 2 bedroom stone cottage with garage in side plot.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area, having regard to the nearby listed building;
 - The effect of the proposed development on the occupiers of 87 Osgodby Lane, with particular regard to outlook from the garden; and
 - Whether the proposed development would provide a satisfactory standard of accommodation for its future occupiers, with particular regard to the private amenity space.

Reasons

Character and appearance

3. The appeal site comprises the side garden of 75 Osgodby Lane. No 75 makes a positive contribution to the area and pre-dates the majority of other dwellings within the vicinity of the site. The site currently visually separates the older host property with the adjacent more modern development. The surrounding area is primarily characterised by residential properties which vary in design, scale and plot size.
4. On the opposite side of the road is a Grade II listed building, Poachers Barn Public House and its associated outbuildings. This is an attractive,

predominantly two-storey rendered and stone building with a pantile roof, sash windows and prominent chimney stacks.

5. Framework paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.
6. The proposed development would introduce a dwelling with an angled design with part of the dwelling being angled approximately 45 degrees from the main front elevation. The design of the property also includes front dormers, a canopy and quoin detailing. Although there are a mix of dwellings within the vicinity of the site, the scheme would result in a prominent addition to the street scene due to the combination of the width and height of the proposed dwelling. Furthermore, the scheme would fail to respond positively to the local context because the dwelling's design would not be reflective of properties within the surrounding area.
7. The Council assert that the listed building and appeal site form a historic grouping. Properties within the vicinity of the site have altered the appeal sites relationship with the listed building shown in the ordnance survey map. The appeal site currently has little relationship with the listed building. Given the distance between the appeal site and the Grade II listed building as well as the intervening highway and the design of nearby properties, the scheme would have a neutral effect on the heritage asset and would preserve the special interest of the listed building.
8. For these reasons, although the proposed development would have a neutral effect on the listed building, it would cause harm to the character and appearance of the surrounding area. Consequently, it would conflict with Policy DEC1 of the Scarborough Borough Local Plan (2017) (LP). This policy seeks, amongst other matters, to promote good design which responds positively to the local context.

Living conditions- existing occupiers

9. The reason for refusal, in this regard, refers to 85 Osgodby Lane. However, it is clear from the submitted information, including the Council's statement, that this is an error and should refer to 87 Osgodby Lane.
10. The proposed two-storey dwelling would be situated in close proximity to No 87's rear garden. The appellant highlights that the existing ground levels are to be reduced. Nonetheless, given the relationship with the appeal site and No 87's rear garden and the height of the proposed two-storey dwelling, the scheme would have an intrusive and oppressive effect for users of No 87's garden. Thus, the outlook from No 87's garden would be dominated by the development and the scheme would have an overbearing impact.

11. For these reasons, the proposed development would adversely affect the living conditions of the occupiers of No 87, having regard to outlook from the garden. Accordingly, the scheme would conflict with Policy DEC4 of the LP which seeks, amongst other matters, to ensure proposals for development do not give rise to unacceptable overbearing impacts.

Living conditions- future occupiers

12. The proposed development includes a garden to the front and rear of the dwelling. The area to the front would not be private given its location adjacent to the road. Nonetheless, the area to the rear would be private. The private amenity space would be of a size that would be appropriate for the proposed two-bedroomed dwelling. It would provide a satisfactory outdoor area for its future occupiers, including sufficient space for relaxation, leisure and clothes drying.
13. For these reasons, in this regard, the proposed development would accord with Policy DEC4 of the LP which states that proposals should ensure that future occupants of land and buildings are provided with a good standard of amenity.

Other matters

14. I have had regard to the other considerations highlighted by the appellant. These include that the proposed development would allow the extended family to live together, reference to approved applications and frustrations with the Council. However, these considerations do not outweigh the conflict I have found.

Conclusion

15. As set out above, I have found that the proposed development would have a neutral effect on the listed building and would provide adequate private amenity space for future occupiers. However, the proposed development would cause harm to the character and appearance of the surrounding area and would adversely affect the living conditions of the occupiers of No 87 to which I attach significant weight.
16. The benefits associated with the proposed development would be small and would not outweigh the deficiencies that would arise as a result of the conflict with the development plan and there are no other considerations that outweigh this conflict.
17. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L M Wilson

INSPECTOR