



Appeal Decision

Site visit made on 24 August 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2022

Appeal Ref: APP/E2734/W/22/3300640

29 East Parade, Harrogate HG1 5LQ

- 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 Mr and Mrs Ashleigh and Caroline Wells against the decision of Harrogate Borough Council.
 - The application Ref 21/05205/FUL, dated 1 December 2021, was refused by notice dated 3 May 2022.
 - The development proposed was originally described as change of use of former working men's club to form two dwellings (1x two bed, 1x three bed), including the demolition and reconstruction of an existing rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the determination of the planning application, the appellants submitted amended plans to the Council. However, the Council made its determination based on the originally submitted plans. The amended plans have been submitted as part of the appeal. Where amendments are proposed in the appeal, regard should be had to the 'Wheatcroft' principles - including whether the amendments would materially alter the nature of the application and whether anyone, who should have been consulted on the changed development, would be deprived of that opportunity.
3. The amendments would significantly alter the roof form of the proposed extension and would be aimed at addressing, in part, the reasons for refusal. In my view, the amendments would materially alter the proposed development such that to grant it would result in a physical development substantially different from that previously consulted upon.
4. The amendments have not been subject to public consultation through the application process. Taking this into account, I cannot be certain that there would not be any prejudice to any party should I accept the amendments at this stage. As such, in the interests of fairness and natural justice, I have considered the appeal based on the plans which formed the basis of the Council's decision.

Main Issues

5. The main issues are:
 - whether sufficient evidence has been provided to justify the permanent loss of the existing community facility;

- Whether the proposed development preserves or enhances the character and appearance of the Harrogate Conservation Area (CA);
- The effects of the proposed development on the living conditions of the occupiers of the second floor flat of 29 East Parade with particular reference to outlook; and
- Whether future occupiers of the proposed development would have acceptable living conditions with particular reference to privacy.

Reasons

Loss of Community Facility

6. The appeal building was, in part, used by the National Reserve Club from 1913 until its closure in 2020. As a former working men's club, it is a community facility. Policy HP8 of the Council's Local Plan (2020) (LP) says, amongst other things, that proposals for development that involves the loss of land or premises currently or last in community use will be permitted only where it can be clearly demonstrated that one of three criteria are met.
7. Criterion A requires a proposal to clearly demonstrate that continued community uses would cause unacceptable planning problems. In this regard, I recognise that there are residential properties nearby, including flats in the appeal building. However, the appeal site is located close to the town centre in a mixed area on a busy street. It is not in a quiet residential area. Such a location and relationship to upper floor flats or other nearby residential properties is not unusual. Moreover, the former working men's club operated on the site for a considerable number of years and no substantive evidence has been provided of problems from its past use.
8. The prevalence of signs elsewhere in the CA, indicates that the site's location in the CA would not be an impediment to delivering signage for any new user. In this regard, it has not clearly been demonstrated that a continuing community use would cause unacceptable planning problems.
9. Criterion B requires a proposal to clearly demonstrate that a satisfactory replacement facility is provided in a suitably convenient location for the catchment served prior to the commencement of development. There is no dispute that the proposal does not offer such a replacement facility. I accept that other aspects of the social club can be found elsewhere, such as a function room and bar. However, social clubs are distinct community facilities that serve their members within the community. They have a different offering to Public Houses, with a more member focussed role, often centred on a common interest that can be distinct between social clubs. This, in my view, fosters a strong sense of community. In this regard it has not been clearly demonstrated that a satisfactory replacement facility is provided.
10. Criterion C requires a proposal to clearly demonstrate that there is no reasonable prospect of the existing use continuing on a viable basis with all options for continuance having been fully explored, and thereafter there is no reasonable prospect of securing a viable satisfactory alternative community use. In this regard, the dissolution of the club in 2020 is sufficient to clearly demonstrate that the National Reserve Club would not continue. However, that alone does not demonstrate that there is no reasonable prospect of securing a viable satisfactory alternative community use.

11. Paragraph 8.101 of the LP provides supporting text for the assessment of Criterion C and stipulates, amongst other things, that applicants will be required to provide evidence to demonstrate that reasonable attempts have been made to actively market the land or premises for sale or lease by an appropriate agent(s), at existing use value for at least 12 consecutive months prior to the application being made.
12. The site is located near residential properties as well as the town centre with a public car park to the rear. In this regard, it is in an area with excellent access for the local community, even if there is no parking on site. The appellants' local surveyor suggests that the property needs upgrading and there is likely to be little demand for an alternative community use. However, there is no firm evidence that clearly demonstrates that this is the case.
13. The supporting text does not form the policy wording itself but is an aid to understanding the policy. As such, it is helpful in this case in understanding the application of criterion C within Policy HP8. Even though any alternative community use that may come forward through a marketing campaign would likely serve a different part of the community, there is no requirement within Policy HP8 that any alternative must be so narrowly focussed to only serve the one particular part of the community that previously used the building.
14. Moreover, whilst paragraph 8.98 says that this policy seeks to encourage the retention of a wide range of locally based community facilities to help ensure that people have good access to a range of services. This does not justify a reduced application of the policy due to the site's location near the town centre and location of other different community facilities. Indeed paragraph 8.98 reaffirms that the policy is geared towards retaining existing community uses or re-instating former community uses by whatever means possible. In this regard, I do not consider there to be a justification within the intention of Policy HP8 that would justify not robustly testing the market in this instance.
15. I therefore conclude that there has not been sufficient evidence provided to justify the permanent loss of the existing community facility. The proposal would therefore conflict with the requirements of Policy HP8 of the LP. This policy is broadly consistent with the requirements of the National Planning Policy Framework (2021) (the Framework).

Conservation Area

16. The Harrogate CA Appraisal identifies Nos 3 – 59 East Parade as being 'buildings of local interest & merit'. The appeal building (No 29) is an end of terrace spread over four floors. It is an attractive property from the front where it has a relatively narrow form but its steep roof, external chimney stacks, stone materials, rising bay windows and door detailing all contribute to a sense of grandeur.
17. With its uniform character with other properties in the terrace prevailing despite some differences, the appeal building makes a positive contribution to the CA. To the rear, is a large flat roof extension. It appears a box like, oversized, unduly dominant extension built, from red brick and composite timber cladding. The combination of its materials and form results in a striking extension, which fails to harmonise with the host dwelling or the rest of the terrace.

18. The replacement extension would have a similarly bulky design but would also introduce a roof structure. This would have a glazed gable on one end but a sloped form on the other, which would not tie into the original dwelling. This would appear an awkward arrangement. This roof form would be set in, maintaining a flat roof but it would add bulk, which would exacerbate the existing dominance of the structure, drawing the eye and incrementally eroding views of the historical fabric of the host building.
19. The extension is highly prominent from the access road to the side of the property, the rear access road, the car park, rear access to the station and the upper walkway from the car park over the railway line to the town centre. In this regard, the effects would be clearly seen in various views within the CA and would neither preserve or enhance it. I have reached this conclusion recognising that the proposed stone and timber cladding materials would be an improvement from the existing materials and the proposed fenestration would reflect the contemporary nature of the proposed extension.
20. To conclude on this main issue, the proposal would not preserve or enhance the character and appearance of the Harrogate CA. The harm would be localised to this part of the CA. As such, the effects would be less than substantial in the context of paragraph 202 of the Framework. In accordance with paragraph 202, I must balance that less than substantial harm against the public benefits of the development.
21. There would be some limited social and economic benefits from the proposed housing, including from the reuse of the premises in a sustainable location. However, heritage assets are irreplaceable and great weight should be given to their conservation. Moreover, the proposal would also result in the loss of a community facility and there has not been sufficient evidence provided to justify its permanent loss. Accordingly, there are no public benefits that outweigh the less than substantial harm to the CA, resulting from the proposal.
22. Thus, the proposal would conflict with the requirements of Policies HP2, HP3 and HS8 of the LP, the guidance within the Council's House Extensions and Garages Design Guide and the Heritage Management Guidance SPD and the Framework, insofar as they relate to this main issue. These stipulate, amongst other things, that development should incorporate high quality building, urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments.

Living conditions - second floor flat of No 29

23. The proposed roof structure would be positioned very close to the existing windows on the second floor of the host building. The appellants advise that these windows serve a bedroom of the flat and a common stairwell. Whilst I recognise that both of these windows would have lower expectations than main windows serving rooms, such as living rooms, no calculations of the extent of any overshadowing have been submitted as part of the scheme. Moreover, the bedroom window of the flat is the only window on its rear and the flat has no windows on the side. It is therefore reliant on this window and its front windows to provide outlook and light.
24. The roof structure would be generally to the west of the bedroom window when the sun is at its lowest and although roof slopes away from the window, it

strikes me that both windows would suffer some increased shadowing effects. Moreover, the views out would be considerably eroded from one of an open aspect across the flat roof to the physical bulk of the roof structure. At such close proximity, despite its position, the sloping nature allowing some angled views, the roof structure would be an oppressive feature, resulting in a sense of enclosure to the rear of this flat. Whilst the extent of shadowing might not be significant given the low angle of the sun to the west and some of the taller structures in that direction, the harm to outlook would be.

25. To conclude on this matter, the proposal would result in an unacceptable effect on the living conditions of the occupiers of the second floor flat of No 29 with particular reference to outlook. I therefore find that the proposal would conflict with the requirements of HP4 of the LP. This says, amongst other things, that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours.

Living conditions – future occupiers

26. The side elevation of the scheme would have ground floor windows serving bedrooms which would be adjacent to the footway. Such a situation is not entirely unusual. For example, many terraced houses were originally built fronting onto the footway with windows immediately adjacent.
27. Passers-by would be able to look into the rooms as they walk past. However, such transient views would be fleeting and not lingering. As such, I do not consider that this arrangement would cause significant levels of overlooking.
28. I therefore conclude on this main issue that future occupiers of the proposed development would have acceptable living conditions with particular reference to privacy. I therefore find no conflict with Policy HP4 of the LP, insofar as it relates to this main issue.

Other Matters

29. Concerns regarding the processing of the application are not matters that I can consider as part of this appeal and do not affect the planning merits of the scheme.

Conclusion

30. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR