



Appeal Decision

Site visit made on 1 November 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/E2734/W/22/3306998

Prospect Cottages, Park House Green, Harrogate, North Yorkshire HG1 3HW

- 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 S Zia, Zia Developments Ltd against the decision of Harrogate Borough Council.
 - The application Ref 22/02302/FUL, dated 9 June 2022, was refused by notice dated 29 July 2022.
 - The development proposed is demolition of existing two dwellings and erection of three dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr S Zia against Harrogate Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the application form. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.
4. Amended plans were submitted during the application process but were not accepted by the Council. The application was refused on the basis of the original plans. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. The guidance is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application.
5. Having regard to the judgement in *Wheatcroft*¹, the nature of the revision proposed and the degree of engagement of all parties and the interests of fairness, I have determined the appeal on the basis of the plans upon which the Council made their decision and on which all parties were consulted.

Main Issues

6. The main issues are the effect of the proposal on:
 - The character and appearance of the area; and,

¹ *Bernard Wheatcroft Ltd v SSE* [1982] 43 P&CR 233

- The living conditions of the occupiers of North View, with particular regard to privacy and of the occupiers of 308,310,312 and 314 Skipton Road (Nos.308-314), with particular regard to outlook.

Reasons

Character and Appearance

7. Whilst there is a mix of building forms in the area, 1 and 2 Prospect Cottages reflect the same age, vernacular form and materials as Nos. 308-314 and this, together with the gaps either side of Prospect Cottages contributes positively to the street scene and character of the area. Moreover, due to the set-back of houses between the junction of Skipton Road and Ripon Road with Park House Green, and the low-level garage block opposite the appeal site, the stone gable elevation of 1 Prospect Cottage is reasonably prominent within the street scene.
8. The proposed building would almost cover the full width of the appeal site, and significantly reduce the gap to Park House Court. Due to the scale and mass of the appeal proposal, this would have the effect of intensifying the urban built form, closing the view through and beyond the site towards development at the rear. Although a gap would be retained to the rear of Nos. 308-314, and the overall height of the appeal proposal would not be significantly greater than neighbouring buildings, the scheme would appear cramped in the plot and incongruous in the street scene.
9. In coming to this view, I have had regard to the pattern of development in the locality and the design of the proposal. While the proposed building would take a cue from some features of Nos 1-5, such as similar materials and projecting gables, the form of the proposed street elevation would be markedly different to other buildings in the surrounding area. With the exception of the elevation to apartments on Park House Court which includes dormers, the predominant appearance of other buildings, despite differing types, ages and materials, is simple and understated.
10. The three-storey appearance and significant scale of the gables projecting over the set-back carports and garaging would be starkly at odds with this prevailing character and would exacerbate the scale and prominence of the proposal, particularly in the context of the low-level garage block opposite and two storey scale of residential development along this part of Park House Green. The proposed development would not therefore enhance the visual composition of the street scene.
11. Moreover, the proposed development would result in the conspicuous addition of a yet another building of differing design in the street scene reducing the visual cohesiveness of the surrounding area.
12. The appellant has referred me to large apartment blocks on Skipton Road as examples in support of the proposal. However, these are located along a main road, with one positioned at the corner of a roundabout, and are consequently seen in a different context to the narrower and winding Park House Green. They are therefore not directly comparable and do not weigh in favour of the proposal.
13. Accordingly, the proposal would have a harmful effect on the character and appearance of the area. In that regard, the development would conflict with

Policy HP3 of the Harrogate District Local Plan 2020 (LP) which, amongst other things, seek to support proposals which incorporate high quality design that protects those characteristics, qualities and features that contribute to the local distinctiveness of the environment. Specifically, the policy seeks for proposals to respect the spatial qualities of the local area, including the scale, appearance and use of spaces about and between buildings and respond positively to built form and grain of the context. For the reasons given, it would also conflict with similar aims stated in the Residential Design Guide (RDG) and the Framework².

14. Policy NE4 (Landscape Character) of the LP does not relate directly to character and appearance within an urban setting. Therefore, this policy weighs neither for nor against the scheme in relation to this issue.

Living Conditions

15. The eastern (rear) elevation of the proposed development faces directly towards the side elevation of North View, which sits at a higher land level to the appeal site. The side elevation of North View includes windows at first floor, a window at ground floor level and French doors which lead out to private amenity space.
16. The distance between the rear elevation of the proposed development and the side elevation containing main windows of North View would be minimal. In terms of overlooking, I accept that direct views towards the rear facing windows of North View would be limited at ground and first floor level due to level differences and boundary treatment. Moreover, overlooking already occurs to some degree at the appeal site and surrounding properties.
17. However, the proposed building would be at the very lower end of the 15m to 21m distance between main rooms required by the Council's House Extensions and Garages Design Guide (2005) (HEGDG), which is relevant in so far as it provides an indication of how the Council assesses the effects of development on neighbours, albeit intended to address extensions. Whilst examples of acceptable distances between existing neighbouring properties and proposed extensions are provided in Appendix D of the HEGDG, consideration of the effect of a completely new development on living conditions of neighbouring occupiers needs consideration on its own merits.
18. The scale of the proposed development would extend across almost the full width of North View and would incorporate a significant number of windows with obtainable views of North View. Due to the relatively short depth of private amenity space that would be retained between the two sites and my observations on site, I find that the second floor rear windows serving the proposed development would offer close up views towards the side facing windows of North View and direct overlooking of the garden serving North View. This would unacceptably infringe on the privacy of the occupiers of this property. As a result, the proposal would harm the living conditions of occupiers of North View, with particular regard to privacy.
19. Whilst I note the character of the area is reasonably tightly knit and the Framework advocates making efficient use of land, this does not compensate for the harm to the living conditions of the neighbouring occupier I have identified would occur as a result of this proposal.

² National Planning Policy Framework 2021

20. The existing outlook from the rear of Nos.308-314 faces towards the appeal site, which is on a lower land level. No.314 Skipton Road (No.314) faces the blank two storey gable of 1 Prospect Cottage. The proposed development would result in a gable elevation of increased depth and height. Notwithstanding this, due to the set-back of the proposed building from the street, the outlook from the rear of No.314 would be modestly improved.
21. The outlook from the rear of 312 Skipton Road (No.312) is dominated by the gable elevation of the existing building across all of its rear boundary. Although the height of the proposed gable elevation would be increased, having regard to the existing relationship and orientation of the appeal site to the north of No.312, the appeal scheme would have an acceptable effect on the outlook of the occupiers of No.312.
22. The proposed building would extend across part of the direct view from the rear of 310 Skipton Road. However, the proposal would not dominate the outlook due to obtainable views of open land between the proposed building and North View. The outlook from the rear of 308 Skipton Road would remain largely similar to the existing outlook with views across gardens and car parking.
23. For the reasons set out above, the proposed development would not harm the living conditions of the occupiers of Nos.308-314, with particular regard to outlook.
24. Notwithstanding my conclusions in respect of the effect on living conditions of the occupiers of Nos.308-314, with particular regard to outlook, I conclude that the proposal would lead to significant harm to the living conditions of the occupiers of North View, with particular regard to privacy. The proposal would therefore be contrary to Policy HP4 of the LP which aims to protect residential amenity. It would also fail to accord with the Framework where it states development should provide a high standard of amenity for existing and future users.

Other Matters

25. I note comments made in respect of the age of the HEGDG and RDG. Due weight should be given to them according to their degree of consistency with the development plan and the Framework. In this instance, I consider the objectives of the HEGDG and RDG to be in a similar vein to the objectives of the Framework in terms of seeking high quality design and neighbouring amenity in development. Accordingly, they are not out of date and I have had full regard to them in making my decision.
26. I recognise the economic and social benefits of the scheme, particularly on a site in an accessible urban location. The scheme would provide one additional dwelling as a contribution to the housing supply in the Borough. However, both parties acknowledge that the Council maintains a 5-year housing land supply, and no evidence has been submitted to indicate this has reduced.
27. There would be economic benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Nonetheless, construction benefits would be short term and the number of additional dwellings amounts to one. Therefore, the benefits above would be relatively limited due to the scale of the scheme and would not therefore

outweigh the harm that I have identified above and the resulting conflict with the development plan.

28. I note the appellant's comment in respect of meeting housing needs, although little detail of how this would be achieved has been submitted, nor is there evidence before me that the existing dwellings would not meet the housing needs of the Borough.
29. Benefits from a more efficient use of land would be minimal given the size of the proposal and compliance with Building Regulations with regards accessibility and energy efficiency is neutral to my considerations. That there were no objections to the proposed development is not a reason to approve unacceptable development.

Conclusion

30. For the reasons given above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR