



Appeal Decision

Site visit made on 23 November 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/E2734/W/22/3301652

Tree Tops, Clint Bank Lane, Harrogate HG3 3DS

- 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 Walsh against the decision of Harrogate Borough Council.
 - The application Ref 21/05370/FUL, dated 13 December 2021, was refused by notice dated 31 March 2022.
 - The development proposed is retrospective planning application for additional storey extension, single storey side extension to east, porch to front door, continuation of stepped plinth to front elevation, single storey side/rear extension, second storey side/rear extension and partial demolition at 'Tree Tops' bungalow, Clint Bank Lane, Harrogate, HG3 3DS.
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Decision

1. The appeal is allowed. Planning permission is granted for replacement dwelling at Tree Tops, Clint Bank Lane, Harrogate HG3 3DS in accordance with the terms of the application Ref 21/05370/FUL, dated 13 December 2021 subject to the conditions set out in the attached schedule.

Procedural Matters

2. Whilst noting the description of development in the banner heading above, it is clear from both the Council and appellant's statements that they consider the proposal could be more accurately described as a replacement dwelling. With that in mind, I have therefore amended the description and considered the proposal on that basis.
3. I am in receipt of a plan showing the proposed southern boundary wall (225/05 (02) 202), the date on which post-dates the Council decision notice. The Procedural Guide to Planning appeals (2021) at Annexe M states that the appeal process should not be used to evolve a scheme. With regard to the matters above, it is important that I determine this appeal based on what was considered by the Council, and on which interested people's views were sought.
4. I have therefore determined the appeal on the basis of the plan that appears to have been before the Council and on which it would have made the decision (225/04 (02) 202).
5. At the time of my site visit it was clear that a replacement dwelling was in place at the site. The elevation plans and internal layout broadly accorded with the plans that are before me. However, the height of the dwelling and plinth appeared to be inconsistent with both the proposed elevations plan (225/04 (02) 200) and the proposed street elevations plan (225/04 (02) 201). I cannot

therefore be certain that the development that has been carried out is the same that has been applied for. For the avoidance of doubt, I have considered the proposal on the basis of the plans.

Main Issue

6. The main issue is whether the proposal would represent an acceptable replacement dwelling the countryside.

Reasons

7. The appeal site sits amongst a run of dwellings on the northern side of Clint Bank Lane within countryside to the north-west of Harrogate.
8. Policy HS7 of the Harrogate District Local Plan (2020) (HDLP) seeks to support replacement dwellings in the countryside where five criteria are met. Part B requires that the new dwelling is not materially larger than the existing dwelling.
9. Whilst making comparisons is made more difficult by the lack of a clear and full site plan showing the former dwelling, on the basis of the plans that are before me, the replacement dwelling is clearly materially larger than that which existed before it. The plans show a well sized two storey dwelling as opposed to the former single storey bungalow. Further, the evidence indicates a 120% increase in floor area.
10. Consequently, the proposal conflicts with Policy HS7 of the HDLP. However, the rationale behind that Policy is clearly explained within the supporting text. Amongst other matters the Policy is concerned with local distinctiveness, visual impact, and the protection of existing landscape character.
11. The dwelling would sit within a tightly knit run of existing residential development where the scale, design and bulk of the dwellings varies markedly. Therefore, with regard to this particular proposal, in this particular location, there would be no harm with regard to the key objectives of the Policy.
12. I therefore conclude on this matter that whilst the proposal would not accord with Part B of Policy HS7 of the HDLP there would be no conflict with the underlying objectives of the Policy. I have afforded these matters significant weight such that they outweigh the conflict with Part B of Policy HS7 of the HDLP. The proposal would therefore represent an acceptable replacement dwelling within the Countryside.

Other Matters

13. The Council have not raised concerns with regard to the living conditions of neighbours and nothing within the evidence leads me to believe that the proposal would have any significant adverse impact with regard to these matters.
14. I am aware of the previous refusal to grant approval required under Article 3, Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO). The appeal was dismissed, Ref APP/E2734/D/21/3266993. The date of the decision was 30 March 2021.

15. However, the evidence indicates that a further prior approval was approved for the erection of an additional storey over the original dwelling in April 2021, Council Ref 21/00870/PDAS.
16. Further, the evidence indicates that planning approval was granted for 'Retention of two storey replacement dwelling and demolition of single storey extension to also include; new boundary wall, gates, associated landscaping and revised access point' by the Council (Ref 22/02084/FUL) on 18 October 2022. I therefore afford the previous appeal decision limited weight.

Conditions

17. A list of conditions has been supplied by the Council. I have made amendments to the wording of some of the conditions given that I cannot be certain that the development that has been carried out is the same that has been applied for.
18. Planning permission is granted subject to the standard three-year time limit. It is also necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. Conditions relating to the site access and in relation to a bat box/swift box and electric vehicle charging are necessary in the interests of highway safety biodiversity and the promotion of more sustainable modes of transport.
19. There is no clear justification to include conditions restricting any permitted development rights. These conditions therefore fail the tests of necessity and reasonableness. The GPDO already provides control on many of the matters mentioned within the Council's suggested conditions. I have not therefore included conditions 3, 4 or 5.

Conclusion and Planning Balance

20. I have identified conflict with the development plan. However, considerations indicate that the appeal should be determined otherwise than in accordance with it. I therefore conclude that the appeal should be allowed.

TJ Burnham

INSPECTOR

Schedule of conditions

1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 225/04 (02) 003, 225/04 (02) 010, 225/04 (02) 020, 225/04 (02) 021, 225/04 (02) 100, 225/04 (02) 200, 225/04 (02) 201 & 225/04 (02) 202.

3) The access to the site at Tree Tops must be set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E50-G and the following requirements:

- Any gates or barriers must be erected at the minimum at the rear of the highway extent and must not be able to swing over the existing or proposed highway.

- That part of the access extending 5 metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 1:40.

- Provision to prevent surface water from the site/plot discharging onto the existing highway must be constructed and maintained thereafter to prevent such discharges.

- The final surfacing of any private access within 4 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

- Measures to enable vehicles to enter and leave the site in a forward gear.

- Kerbs to be removed and grass verges reinstated and works tied in to existing highway.

4) Prior to the commencement of development above base course level details, including information on height and positioning of the dwelling of one permanent, professional quality bat box and one swift brick shall be submitted to and agreed in writing with the Local Planning Authority. The bat box and swift brick shall thereafter be installed prior to the first occupation of the dwelling and retained for the lifetime of the development.

5) Prior to the first occupation of the dwelling, an electric vehicle charging point shall be installed on site, which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). The charging point installed shall be retained thereafter for the lifetime of the development.