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# Appeal Decision

Site visit made on 6 December 2022

**by J Symmons BSc (Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 January 2023**

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**Appeal Ref: APP/H2733/W/22/3304553**

**Land West of 20 Discovery Way, Moor Road, Filey**

- 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 Diana of Essential Vivendi Ltd against the decision of Scarborough Borough Council.
  - The application Ref 21/02328/FL, dated 30 September 2021, was refused by notice dated 13 May 2022.
  - The development proposed is development of one holiday home.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have adopted the site address set out in the appeal form due to it being incomplete on the application form.
3. The Bay Holiday Village is subject to two further separate appeals reference APP/H2733/W/22/3303810 and APP/H2733/W/22/3304550. These are for a children's play area and an addition holiday home on Plot 25 respectively. Both of these appeals are before me to determine and whilst there are similarities between them and this appeal, I have dealt with them separately.
4. The appeal site was originally consented in 2018 and a revised application in 2020. However, due to construction and site level difficulties, a further revised application was approved in 2021 and, at the request of the Council, the proposed holiday home on the appeal site was removed. I have considered this appeal solely on the basis of the planning application refusal.

## Main Issue

5. The main issue is the effect of the proposal on the living conditions of the neighbouring occupiers of Oyster Cottage.

## Reasons

6. The appeal site is located to the western end of The Bay Holiday Village, and it is identified on the development as Plot 26. Oyster Cottage is a two storey property and sits close to the rear of this plot. The proposal would consist of a two-bedroom holiday home similar in design to the existing ones.
7. Oyster Cottage sits at the bottom of a slope. The proposal would be at the top of the slope thereby sitting at a higher level. Oyster Cottage's elevation facing Plot 26 consists of a gable end with small ground level external patio area and

a balcony at first floor level. There are large patio doors at ground level which serve living room and kitchen areas, and at first floor level, glazed units with patio doors to the balcony serve bedroom areas. Oyster Cottage's first floor level would therefore be approximately at the same level as the proposed holiday home.

8. The proposal would be relatively modest in size however, due to the limited property separation and positioning of the proposal at the top of the slope, the proposed holiday home would have an unacceptable overbearing effect on the occupiers of Oyster Cottage, specifically at ground floor and patio level.
9. Although the proposal's orientation would limit direct overlooking from its private deck area and windows, even with enclosures not being permitted increased overlooking from the surrounding grass areas facing Oyster Cottage would be possible. Furthermore, while the increase in visitors would be modest, these extra visitors would potentially add to the number of people congregating in the communal and recreation areas. These would therefore, in all likelihood, increase the risk of overlooking of the occupiers at Oyster Cottage, resulting in a loss of privacy.
10. The appellant directs me to Appeal Ref: APP/H2733/W/15/3129134 as an example of close together holiday homes being permitted. However, I do not have the full details of this case and cannot be certain that the circumstances are the same. Consequently, I give this example little weight and have considered the proposal on its own merits.
11. The appellant indicates that the drawing entitled level and drainage shows how the positioning of the proposal relates to the existing holiday homes. They noted that the proposal would be 6 metres nearer to the nearest holiday home to the north. However, this drawing does not consider the dominating effect the level difference has on Oyster Cottage. The low height of the proposal and use of muted colours would not reduce the harm I have found.
12. In conclusion, the proposal would adversely affect the living conditions of the neighbouring occupiers at Oyster Cottage in terms of it being overbearing and its effect on privacy. It would be contrary to Policy DEC4 which seeks to ensure that existing and future occupants of land and buildings are provided with a good standard of amenity.

### **Other Matters**

13. While the economic benefits of The Bay Holiday Village to the area are recognised, this does not outweigh the harm I have found to the neighbouring occupiers of Oyster Cottage.
14. Reference is made to Plots 47 and 53 on the holiday home site which were originally removed from the approved application, but subsequently were permitted by the Council following a planning application. However, the circumstances relating to these plots would be different to the appeal site with the rear properties being a different type and the property separation being greater. Consequently, I give little weight to this and have considered the case on its individual merits.

## **Conclusion**

15. The development would conflict with the development plan, when read as whole. Material considerations, including the National Planning Policy Framework 2021 do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*J Symmons*

INSPECTOR