



Appeal Decision

Site visit made on 10 January 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2023

Appeal Ref: APP/E2734/W/22/3309601

36 York Place, Harrogate, North Yorkshire HG1 5RH

- 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 & Mrs Suddaby against the decision of Harrogate Borough Council.
 - The application Ref 22/02350/FUL, dated 13 June 2022, was refused by notice dated 18 August 2022.
 - The development proposed is erection of a 3 bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address used in the banner heading above is taken from the planning application form but with the town and county inverted in the correct order.
3. The appellant has submitted an amended proposed site plan with the appeal (drawing number P003H), in order to address the Council's concerns in respect of the swept path of vehicles accessing the appeal site. This includes a minor alteration to the position of an internal garden wall within the appeal site. For this reason, as well as noting that the Council were able to consider the revised plan and could have commented on the revision through the submission of a statement had they chosen to do so, I consider that no other interests would be prejudiced in accepting this plan. I have therefore determined the appeal on the basis of the plans referred to in the application, as well as the revised site layout submitted by the appellant.

Main Issues

4. The main issues are;
 - i) whether the proposed development would preserve or enhance the character or appearance of the Harrogate Conservation Area (CA), with particular regard to the effect on the significance of the non-designated heritage asset (NDHA) at 36 York Place;
 - ii) the effect of the proposed development upon the living conditions of neighbouring occupiers with particular regard to outlook, privacy and loss of sunlight; and
 - iii) the effect of the proposed development upon highway safety.

Reasons

Character or Appearance of the Harrogate Conservation Area

5. The appeal site lies within the boundary of the Harrogate CA. In accordance with the duty imposed by Section 72(1) of the Planning (Listed Building and

- Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The significance of the CA lies in its grand Victorian architecture that defined the commercial expansion of the city in the 19th century, largely arising from the popularity of the hot sulphur baths. It has a high density of architecturally impressive historic buildings typically 2-3 storeys high, often with attic storeys. The CA is further characterised by the generally consistent use of traditional materials including coniferous sandstone and slate, although there has been more modern infill development of differing materials.
 7. The appeal site lies within the Harrogate Conservation Character Area A: Town Centre, Low Harrogate and the Victoria Park Estate. It would be accessed from the main thoroughfare of York Place, a straight road reflective of the planned development of the town in the 19th century. A mixture of detached villas, semi-detached houses or short terraces forming an attractive group of perimeter buildings fronting York Place, conceal development and gardens to the rear. They are richly detailed, robust buildings with a balanced proportion of window openings to wall, and simple roof forms.
 8. In addition, the appeal site lies to the rear of 36 York Place, a locally listed building that both parties agree is a NDHA. Paragraph 203 of the National Planning Policy Framework (the Framework) sets out that the effect of an application on the significance of a NDHA should be taken into account in determining the application. In weighing applications that directly or indirectly affect NDHA, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
 9. A former large and elegant Victorian villa, No 36 appears to be now subdivided into smaller units with part of the previous rear garden area now forming the appeal site. Taller than the row of terraces to the west and set closer to the road, it has a rectangular footprint with refined architectural detailing within the stonework, and generally balanced proportions with a central tower that protrudes above the roof. These features emphasise the building's grandeur and contribute to the significance of the building as a NDHA, whilst further contributing positively to the appearance of the CA.
 10. The Council suggests within the second reason for refusal that the materials for the proposed dwelling would be inappropriate. However, it seems to me that this has been articulated in the officer report in relation to the design of the proposed dwelling rather than the materials themselves. I find that the proposed use of stone and slate would be appropriate to the significance of both the NDHA and the wider CA.
 11. However, the contemporary glazing, brise soleil and green roof would contradict and compete with, rather than complement, the more traditional elements of the design including the cat slide roof, porthole window and rear elevation which would be particularly numb in appearance. In addition, the proposed dwelling would have a complicated footprint and convoluted roofscape including flat, dual pitched, asymmetrical dual pitched and lean-to roof forms. As a result of both its form and elevational treatment the proposed dwelling would therefore have an unduly complicated and disjointed appearance, without overall visual coherence. In this regard I do not consider the proposal to represent high quality development that would assimilate well within the setting of the NDHA, nor preserve or enhance the character or appearance of the CA.

12. I accept that there are single storey outbuildings nearby. However, the proposal being a dwelling is a different form and scale of development. Albeit in an 'L' shaped formation with some sections being single storey, the proposed dwelling would occupy nearly the full width and the majority of the length of the appeal site.
13. Notwithstanding the appellant's calculations of the proposed development comparable to the overall size of the appeal site, these relate only to the footprint of the proposal. They do not therefore account for the 3-dimensional impact that the resultant dwelling would have on the openness of the appeal site. The single storey sedum roof would extend above the height of the boundary wall and with a taller lantern roof to the centre, but I note that it would account for less than half of the building form overall. Whilst stepping down in height from the adjacent dwelling of 35a, the form, scale and position of the proposed dwelling close to the site boundaries, would result in a cramped form of development, particularly for the occupants of adjacent dwellings on Princes Villa Road.
14. Public views of the appeal site are limited. Nevertheless, a glimpsed view of the proposed dwelling would be possible from York Place between No 36 and the adjacent terrace, from where the rear elevations of the dwellings on Princes Villa Road can currently be seen. The existing openness of the site is further appreciated in views across the car parking courtyard on Princes Villa Road. The proposed dwelling would be sited further forward and closer to the car parking courtyard than 35a, such that it would be noticeable from within the street scene of Princes Villa Road. Even if it could not be seen, this would not justify permitting development that does not preserve or enhance the character or appearance of the CA or the significance of the NDHA.
15. I acknowledge that the design has evolved, and the scale of development has been reduced, since the withdrawal of previous applications for a 4 bedroomed dwelling on the appeal site (references 20/05049/FUL and 21/05302/FUL). However, this does not justify allowing the proposal, with which I have found harm for the reasons given above. I acknowledge that the recent dwelling at 35a which lies adjacent to the appeal site is contemporary in appearance with a fully glazed gable. Nonetheless, it has a simple rectangular plan form and uncomplicated elevational treatment and roofscape, such that it respects the character of adjacent properties. It is also further away and not directly within the immediate setting of the NDHA, as is the case with the appeal site. Hence, I do not find it comparable to the proposal before me.

Conclusion – Character or Appearance of the Conservation Area

16. For the above reasons, the proposed design, form and scale of development would combine to create an inharmonious and cramped form of development that would fail to preserve or enhance the character or appearance of the CA, and have an adverse effect on the significance of the NDHA. The proposal would therefore be contrary to Policies HP2 and HP3 of the Harrogate District Local Plan 2020 (HDLP) which seek amongst other things, to ensure that new development enhances or reinforces characteristics, qualities and features that contribute to local distinctiveness, and protects or enhances features that contribute to the special architectural or historic interest of a heritage asset. There would also be conflict with the statutory test and paragraph 197 of the Framework, which indicates that development should sustain and enhance the

significance of heritage assets, and make a positive contribution to local character and distinctiveness.

17. I recognise that the impact of the proposal on the CA would be localised, given it would predominantly be seen in relatively close views from Princes Villa Road and to a lesser extent York Place. Consequently, in the words of the Framework, the harm to the significance of the CA would be less than substantial and the harm to the significance of the NDHA would be modest. Paragraph 202 of the Framework therefore directs me to weigh the identified harm against the public benefits of the proposal, a matter to which I now turn.

Heritage Balance

18. The appellant has not put forward any particular public benefits to weigh against the harm to the CA and NDHA. The Council advises that the proposal is for a self-build dwelling for which there is support through both national and local planning policy. Although Policy HS3 of the HDLP requires the provision of a proportion of self-build plots on strategic sites of more than 500 units, the Council accepts that a number of self-build schemes will come forward via single dwellings on infill sites such as the appeal proposal.
19. The Council informs me that the Self and Custom Build Housebuilding Register (the Register) and Monitoring Report 2021 indicate that it is permitting sufficient plots to meet self-build demand. Until October 2021 356 plots were permissioned and as of July 2022 there were 194 people seeking plots. However, it is not clear from the evidence before me as to whether the figure for the permissioned plots includes approvals for dwellings which are not restricted to being self-build or custom housebuilding plots. Furthermore, there is no evidence before me as to whether the appellants are listed on the Register, or that they are willing to agree to a suitable mechanism to secure the proposed dwelling for self-build purposes.
20. Notwithstanding the above, the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) does not provide for the approval of self-build plots as an exception to the provisions of the development plan or other relevant matters.
21. For the reasons given above, the proposal would cause harm to the significance of No 36 as a NDHA and, it would fail to preserve or enhance the character or appearance of the CA, harm that I am directed by local and national planning policy to attach considerable importance and weight. Even if the appellant was agreeable to securing the development as a self-build plot, and the Council was unable to demonstrate a deliverable supply of self-build plots to meet demand, given the clear conflict with the development plan, the provision of just one self-build dwelling would not represent a substantial public benefit. I conclude that the public benefits of the scheme would not therefore outweigh the heritage harm I have identified.

Living Conditions

Outlook

22. The dwellings of 10, 12 and 14 Princes Villa Road form part of a small-scale terrace that back onto the appeal site to the north-east. The parties disagree on the distance between the 2-storey flank elevation of the proposed dwelling and No's 12 and 14, with the Council suggesting a distance of 8.6m and the appellants 9m. Either way, it is clear to me that the proposed dwelling would be very close to the rear elevation of these neighbouring dwellings and closer

still, to the rear conservatory of No 12 (5.6m as cited by the Council). The proposed single storey lean-to section adjacent the shared boundary, would do little to mitigate the proximity of the taller gable behind, which itself is shown on the proposed plans and elevations drawing to project above the boundary wall.

23. The proximity, height and overall scale of the proposed 2-storey dwelling would therefore appear dominant and oppressive when viewed from the habitable rooms and small, shallow rear gardens of No's 12 and 14. The occupants of No 10 would also be affected but to a lesser extent, given the more oblique positioning relative to this dwelling. Whilst I accept that the adjacent dwellings have small rear gardens and the existing boundary wall is a strong feature, this does not justify allowing new development of a large scale, that would substantially curtail the outlook afforded to the existing occupants.
24. Given the separation distances that would remain to No 36 and Flats 1 and 2 of 36a York Place, I am satisfied that the proposed development would not adversely affect the outlook afforded to the occupants of these dwellings.

Privacy

25. I am referred to the Council's House Extensions and Garages Design Guide: A Companion to the Residential Design Guide 2005 (House Extensions Guide). It sets out guidelines for minimum separation distances from extensions to neighbouring dwellings. The proposal is for an entirely new dwelling, rather than an extension to an existing one. Nonetheless, the House Extensions Guide provides useful guidance in relation to protecting the privacy of existing occupants.
26. A large window serving the internal staircase would be located in the north-eastern elevation of the proposed dwelling, which the Council advise would be 10m from the rear elevation of No 14. However, it seems to me that drawing number P003H indicates a closer relationship than suggested. Either way, the distance would be below the recommended minimum guideline of 12m between secondary and tertiary windows as set out in the House Extensions Guide. Whilst not serving a habitable room it is apparent that the window would protrude above the boundary wall, and given its large size and that the staircase would be split level, direct views into the rear habitable rooms of No 14 would be possible at extremely close range.
27. The appellant suggests that the window would be obscure glazed despite no such annotation on the plans. Were I minded to allow the appeal, a condition could be attached to secure the window as fixed and obscure glazed. Without such a condition, I am clear that a wholly unacceptable loss of privacy would occur for the occupants of No 14.
28. Whilst the rear windows of dwellings on York Place have views towards the private garden space belonging to Flats 1 and 2 of 36a York Place, they are of such a distance away that occupants utilising the space would not feel unduly overlooked. The presence of an outbuilding provides a buffer and degree of screening from No 10 which along with the existing boundary walls and fences provides a degree of privacy for the occupants, particularly when seated within the garden.
29. Although the House Extensions Guide recommends a distance of 7.5m between the rear elevation of a dwelling and the rear boundary, the proposed development would be sited approximately 1.7m (as cited by the Council) from

the north-western boundary. With windows to habitable rooms at first floor level, direct views down onto the neighbouring garden space would occur such that there would be no-where within this space that would be private. This would be significantly damaging to the living conditions of the occupants of Flats 1 and 2 who are less likely to want to use this space if they feel watched from close range.

30. The proposed development would be of a sufficient distance beyond the rear elevation of No 36 such that there would be no direct overlooking and therefore loss of privacy, for the occupants of this building.

Loss of Sunlight

31. The appellant suggests that the rear gardens of No 12 and 14 face west. However, it is clear from the submitted plans that they face to the south-west. Being in proximity to the south-west and extending for the full distance of the boundaries to the rear of No 12 and 14, the proposed development would result in a loss of afternoon sunlight to the private rear gardens of these neighbouring dwellings. Given their very shallow depth and limited overall size, such a loss of sunlight would be significant, and is likely to render the gardens more inhospitable for normal domestic activities such as sitting outside. This would particularly be the case for No 12 which would be more acutely affected.
32. Shading would also occur to the private garden space belonging to Flats 1 and 2 of 36a York Place, particularly in the morning, due to the position and scale of the proposed dwelling to the south-east. Given the garden's limited size this is likely to make the space less useable for the neighbouring occupants which I note is already likely to experience afternoon shade from the recent development at 35a, given its proximity and height.

Conclusion – Living Conditions

33. I have found that the proposed development would not adversely affect the outlook afforded to Flats 1 and 2 of 36a and the outlook and privacy of No 36. Nonetheless, it is clear that the proposed development due to its size and proximity to the site boundaries, would materially and significantly worsen the outlook afforded to No's 12 and 14 and to a lesser extent No 10, reduce the privacy to No 14 and the garden of Flats 1 and 2, and reduce the amount of sunlight afforded to No's 12 and 14 and the garden of Flats 1 and 2. These impacts would adversely affect the living conditions of existing occupiers. The proposal would therefore conflict with Policy HP4 of the HDLP which seeks to protect residential amenity, an objective shared with the House Extensions Guide.

Highway Safety

34. Vehicular access to the appeal site would be gained via the existing single track lane from York Place, which I am advised is a private no-through road with boundary walls to either side. A new opening would be created in the south-eastern wall to allow on-plot parking next to the dwelling. Due to the linear arrangement of the proposed car parking area, there would be insufficient space within the appeal site to enable vehicles to turn around.
35. Nevertheless, during my visit I saw that the access lane although narrow, would be sufficiently wide enough to allow cars to reverse into the proposed car parking area. This is particularly the case as shown on the amended site plan (drawing number P003H) as the setting back of the internal garden wall provides more room to allow vehicles to manoeuvre. Vehicles would therefore

be able to pull forwards on exiting the appeal site and join York Place in a forward gear. This is similar to vehicles accessing the parking area to No 35a opposite, which are also required to reverse into the spaces.

36. Paragraph 111 of the Framework is clear that development should only be refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The creation of one dwelling would result in relatively limited vehicular movements per day along the access road and onto York Place. Bearing in mind the specific attributes of the appeal site and in the absence of any evidence that safety issues or disruption to traffic flow would occur as a result of the proposed development, I find that the proposal would not result in a severe impact on the road network.
37. The proposed development would not be harmful to highway safety. As such the proposal complies with paragraphs 110 and 111 of the Framework, which aim amongst other things, to achieve safe and suitable access and to prevent unacceptable impacts on highway safety.

Planning Balance and Conclusion

38. The proposed development would not harm highway safety, nor the outlook of Flats 1 and 2 of No 36a and No 36, along with the privacy afforded to the dwellings within No 36. However, it would fail to preserve or enhance the character or appearance of the CA and would have an adverse effect on the significance of the NDHA. Moreover, it would be harmful to the living conditions of neighbouring residents of 10-14 Princes Villa Road with regard to outlook, privacy and sunlight and the privacy and sunlight afforded to the garden space for Flats 1 and 2 of No 36.
39. I am required to attach considerable importance and weight to the harm that would be caused to designated heritage assets. The potential provision of one self-build dwelling would not override the great weight to be attached to the harm to the CA, nor the modest harm to the significance of the NDHA. I conclude that the identified harm would outweigh the public benefits of the proposal.
40. For the reasons set out above and having regard to the development plan read as a whole, the approach in the Framework and all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR