



Appeal Decision

Site visit made on 6 June 2023

by A Caines BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/E2734/W/23/3317903

29 Grove Road, Harrogate HG1 5EW

- 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 Dr A Mbekeani against the decision of: Harrogate Borough Council.
 - The application Ref 21/04573/FUL, dated 16 October 2021, was refused by notice dated 8 September 2022.
 - The development proposed is use of the existing outbuilding as ancillary living accommodation to the host dwelling and a short-term holiday on an ad-hoc basis.
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Decision

1. The appeal is allowed and planning permission is granted for use of the existing outbuilding as ancillary living accommodation to the host dwelling and a short-term holiday let at 29 Grove Road, Harrogate HG1 5EW in accordance with the terms of the application, Ref 21/04573/FUL, dated 16 October 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan; P02-OH B.
 - 2) The development hereby permitted shall only be used for short-term holiday purposes or living accommodation ancillary to 29 Grove Road. It shall not be occupied as a person's sole or main place of residence. For the purposes of this condition, 'short-term holiday purposes' means letting to the same individual, family, or group for period(s) not exceeding a total of 31 days in any calendar year.

A register of occupancy, to include the names and addresses of all occupiers and their arrival and departure dates, shall be kept by the owners/operators of the site and shall be made available at all reasonable times for inspection by the local planning authority.
 - 3) Notwithstanding the submitted details and condition 1, all first-floor windows in the south elevation of the building shall be obscurely glazed to a minimum of level three of the Pilkington scale, or other equivalent, and shall be retained as such for the lifetime of the development.

Procedural Matters

2. It is clear from the evidence, and my site visit, that the proposal is retrospective.
3. The appellant requested that an amended drawing [P2-02-OH C] be considered as an alternative in the event that the originally submitted drawings were deemed to be unacceptable. The amendments include clear glazing above a

height of 1.8m for two first floor windows and the insertion of a new rooflight. The changes are minor and interested parties have had the opportunity to comment on them through the appeal process. However, for the reasons set out below, I do not consider the amendments to be necessary, and so, I have considered the appeal on the basis of the drawings that were before the Council when it made its decision.

Main Issues

4. The main issues in this appeal are:

- Whether the privacy of neighbouring occupiers and future users of the development would be adequately safeguarded; and
- Whether the development would provide a satisfactory standard of accommodation for its intended users, with particular regard to outlook and garden space.

Reasons

Privacy

5. The appeal building is located at the rear of 29 Grove Road. In 2020 planning permission was granted for its conversion to ancillary living accommodation for No 29¹, subject to various conditions. Condition 4 required the two first-floor windows in the south elevation to be obscurely glazed to protect the privacy of the occupiers of the neighbouring terraced properties.
6. At the time of my site visit, both windows in question were obscurely glazed as required by Condition 4. Furthermore, my internal inspection confirmed that the obscure glazing prevented views into the neighbouring windows opposite, and vice versa. As such, no loss of privacy would occur.
7. The Council states that its concerns over privacy were due to the obscure glazing not being shown on the proposed drawings. To my mind, this was a dubious assumption given the acknowledgements in the Council's officer report that the proposal relates to the use of the building only and that the conversion has already taken place. In any event, an appropriately worded planning condition could secure the obscure glazing, thereby removing any doubt.
8. I therefore conclude that, subject to retention of the obscure glazing, the privacy of neighbouring occupiers and future users of the development would be adequately safeguarded. As such, the proposal complies with Policy HP4 of the Harrogate District Local Plan 2014-15 (the HLP), where it states that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours from, amongst other things, overlooking and loss of privacy.

Standard of accommodation

9. The appeal building does not include private garden space and the obscure glazing to bedroom 2 would result in a bedroom without any clear outlook. It would therefore be unsuitable for permanent occupation as an independent dwelling. However, that is not the development that is before me to consider as part of this appeal.

¹ LPA ref: 20/03802/FUL – Conversion of outhouse to ancillary accommodation

10. The building already has planning permission to be used as ancillary living accommodation. This was subject to a condition to prevent occupation as a separate dwelling. Such a condition is reasonable and capable of being enforced, and I see no reason why a similar condition could not be applied to the appeal scheme.
11. Moreover, the proposal is clearly seeking to provide short-term holiday/visitor accommodation, where the expectation of guests would be very different to those who would be living in permanent residential accommodation. I do not consider that it would be necessary for such development to satisfy standards or comply with planning policies that would be applicable if the building were to be used as a full-time residence. Indeed, the same approach appears to have been followed by the Council in other examples highlighted by the appellant.
12. The location is central and I can see why the accommodation would be attractive to guests who would want such a location when visiting the area or attending events at the nearby conference centre. There also appeared to be a plentiful range of other types and sizes of holiday accommodation in the area, which suggests that prospective guests would have a genuine choice as to whether or not to stay in this unit.
13. For all these reasons, I conclude that the development would provide a satisfactory standard of accommodation for its intended users. As such, the proposal does not conflict with paragraph 130 f) of the National Planning Policy Framework (the Framework), which requires that developments should have a high standard of amenity for existing and future users. I also find no conflict with Policy HP4 of the HLP, as the outdoor amenity space requirements of the policy are clearly aimed at 'new residential development' only.

Other Matters

14. The appeal site lies within the Harrogate Conservation Area (HCA). I have a statutory duty to consider the effect of the proposal on the HCA and I am mindful of the content of the Framework in relation to heritage assets. However, the effect of the development on the HCA has not been raised as a concern by the Council and I can see no reason why the proposal would adversely affect the character or appearance of the HCA given the previous planning permission at the site and absence of external works. I am therefore satisfied that the character and appearance of the HCA would be preserved.
15. I have also had careful regard to the variety of other issues raised by interested parties that have not already been encapsulated above. This includes concerns over the parking and servicing arrangements, traffic, noise, and security. However, these matters were before the Council when it determined the appeal planning application and did not feature in the reasons for refusal. Based on the evidence before me, and my own observations, I have no reason to disagree with the Council's assessment of these matters.
16. The fact that the proposed holiday use was commenced before obtaining planning permission is not a reason in itself to dismiss the appeal. I have determined the proposal on its own merits and found it to be acceptable. Concerns regarding possible future breaches of planning control can be addressed via the Council exercising its enforcement powers.

17. Other matters raised regarding land ownership and regulation of the holiday rental sector are not within the scope of this appeal, so have little bearing on my assessment.

Conditions

18. I have considered the suggested planning conditions against advice in the Framework and the Planning Practice Guidance, making amendments where necessary to ensure they meet the relevant tests.
19. As the proposal is retrospective, it is not necessary to impose a condition requiring implementation within a specific timescale. However, in the interests of certainty, a condition specifying approved plans is required.
20. A condition restricting the occupancy of the accommodation is necessary as it is not suitable for use as a permanent residence. This includes a requirement for keeping a register in the interests of monitoring and enforceability.
21. A further condition requiring obscure glazing is necessary in the interests of safeguarding privacy.

Conclusion

22. For the reasons given, and having regard to all matters raised, I conclude that the appeal should be allowed, subject to the conditions set out above.

A Caines

INSPECTOR