



Appeal Decision

Site visit made on 29 April 2024

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/U2750/W/23/3334888

2 Fairmead Way, Whitby, North Yorkshire YO22 4JL

- 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 Arnold Dixon against the decision of North Yorkshire Council.
 - The application Ref ZF23/01355/FL, dated 14 September 2023, was refused by notice dated 23 November 2023.
 - The development proposed is described as 'erection of 1 no. dwellinghouse'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application. Furthermore, in Part F of the appeal form the reason for the appeal is stated to be that the LPA has refused permission to vary or remove a condition(s). The appeal however relates to the refusal of planning permission for the 'erection of 1 no. dwellinghouse', and I have dealt with it on that basis.
3. The appellant has referred me to a previously approved scheme¹ (06/02672/FL) at the site for a single storey dwelling, for which they say that groundworks were completed. I sought the views of the parties on the status of that planning permission. Clearly, there is disagreement between the parties as to its status. Whilst during my site visit I saw the groundworks which have been undertaken, within the context of an appeal under section 78 of the Act, it is not within my remit to formally determine whether planning permission 06/02672/FL has been implemented lawfully. In any event, even if the appellant is correct, condition 4 of that permission removes permitted development rights for amongst other things, (ii) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas. Therefore, there is no fallback position available under permitted development for the erection of dormers, relating to 06/02672/FL.

¹ 06/02672/FL Planning permission for a 3 bedroom bungalow, 2 Fairmead Way, Whitby, North Yorkshire, YO22 4JL dated 21 February 2007

Main Issues

4. The main issues for the appeal are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposed dwelling on the living conditions of the occupants of neighbouring properties, with particular reference to privacy/outlook/sunlight/daylight;
- Whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of private amenity space; and
- The effect of the proposal on highway and pedestrian safety.

Reasons

Character and appearance

5. Fairmead Way is a cul-de-sac, with two storey dwellings near its junction with Eskdale Road, and single storey dwellings beyond. The appeal site occupies a rectangular shaped area of land situated between the two storey 2 Fairmead Way and the single storey 4 Fairmead Way.
6. The proposed dwelling, although similar in its position within the site and footprint to that approved under 06/02672/FL, includes box dormers to each side of the roof. I saw at my site visit that the provision of dormers is not a typical feature in the street scene. I have had regard to the appellants comments that dormers are common features in Whitby but have not been provided with any specific examples which may support the scheme before me.
7. The proposed dwelling would occupy much of the appeal site and due to the proposed dormers, would appear overly bulky in the street scene, not reflective of development on Fairmead Way. Whilst one of the proposed dormers would be relatively modest in scale, the other would occupy most of the roof slope, out of proportion with the rest of the dwelling and would appear overly dominant. Consequently, the appeal scheme conflicts with Scarborough Borough Local Plan 2017 (LP) Policy DEC1: Principles of Good Design which sets out an expectation for good design in development.

Living conditions of neighbours

8. The proposed dwelling would be situated in close proximity to Nos 2 and 4 Fairmead Way. I saw at my site visit that No 2 has a number of windows and doors facing directly towards the appeal site, close to the site boundary. Given its height and position within the plot, the proposed dwelling would give rise to dominance and enclosing effects, and loss of outlook and light for the occupiers of No 2, which would have a significant effect on the living conditions of the occupants.
9. Similarly, the proposed dwelling would also have a dominating effect and give rise to a sense of enclosure for the occupants of No 4. Furthermore, the proposed windows in the dormers would give rise to a significant loss of privacy for the occupiers of No 4, particularly in respect of the garden area to the rear of the property due to overlooking.

10. The proposed rear elevation of the dwelling would include a first floor window facing the rear garden of 62 Eskdale Road. Given the close proximity of the rear of the dwelling to the garden of No 62 there would be a significant loss of privacy for the occupiers of No 62 from the provision of the proposed window due to the overlooking of the garden area. I note that a similar arrangement was previously approved in scheme 06/02672/FL. Having regard to LP Policy DEC4 and paragraph 135 of the National Planning Policy Framework (NPPF), I however consider it unacceptable. The Council is concerned that the appeal scheme would give rise to overlooking into rooms in No 62, but given the orientation of the respective dwellings, I would not find any such overlooking into No 62 unacceptable.
11. The appeal scheme would give rise to harm to the living conditions of neighbours of nearby properties contrary to LP Policy DEC4 which is concerned with the protection of amenity and NPPF paragraph 135 which amongst other things includes that development creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions for future residents

12. The proposed dwelling would occupy most of the appeal site. Much of the area to the front of the dwelling would be used for parking, and given the width of the proposed dwelling and its proximity to the rear boundary, very little land would be available for amenity purposes for future occupiers. This would not give rise to a good standard of amenity for future occupiers, contrary to LP Policy DEC4 and paragraph 135 of the NPPF. Whilst I note that the proposed provision of amenity space is not dissimilar to the arrangement approved previously by the Council, that scheme was considered prior to the adoption of the LP, and the publication of the NPPF.

Highway safety

13. I saw at my site visit that the appeal site is bounded by a footway on Fairmead Way, with an existing dropped kerb. The submitted plan indicates that parking would be to the front of the proposed dwelling, along with bin storage. Although the appellant states that two cars have been parked at the front of the land without overhang, it has not been demonstrated through this appeal as to how the proposed parking arrangement would work without vehicles parked in the site overhanging the footway, especially given the relatively narrow width of the appeal site and the position of the proposed dwelling in relation to Fairmead Way. This could cause obstruction to the footway and harm to pedestrians, potentially bring them into conflict with vehicular traffic.
14. I appreciate that a similar arrangement involving provision of parking to the front of the dwelling was previously approved in 06/02672/FL, subject to a planning condition. However, no evidence has been provided about the discharge of that planning condition. From the evidence before me, I am not convinced that the proposed development could be made acceptable in this regard through the use of planning conditions, given the limited width of the site and depth behind the footway which would be available for parking of vehicles, which would be in very close proximity to the living/dining room windows of the proposed dwelling.

15. Consequently, the proposal is contrary to LP Policy DEC1 which amongst other things includes that a proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements.

Other matters

16. The appellant has referred to the status of the LP and the Council's preparation of a new local plan. Whilst the LP dates from 2017, it remains part of the development plan for the area, and I have considered this appeal accordingly. I have had regard to the appellants comments regarding the affordability of housing in Whitby, and that the proposed plans have been amended to accommodate Council objections, but that does not lead me to a different decision.

Conclusion

17. For the reasons given above and having considered all matters raised, the appeal is dismissed.

Philip Lewis

INSPECTOR