



Appeal Decision

Site visit made on 15 May 2024

by Mrs S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Appeal Ref: APP/H2733/W/23/3325965

22 Aberdeen Walk, Scarborough YO11 1XW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Bassam Eltaki against the decision of Scarborough Borough Council.
 - The application reference is 22/02392/FL.
 - The development proposed is described as 'To remove existing owners accommodation/bedsit and replace with a new purpose-built accommodation building'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A set of amended plans were submitted to the Council prior to a decision being made on the planning application. These amended plans appear to form the basis for the Council's decision. I have considered the appeal on this basis also.

Main Issues

3. The main issues are (a) whether the proposed development would provide suitable living conditions for future occupiers, with particular regard to the level of private outdoor amenity space and the level of natural light, and (b) the effect of the proposed development upon the character and appearance of the area.

Reasons

Living Conditions

4. The proposed building would be located within the rear yard of an existing terraced property which is divided into flats. A gated passageway would be retained, which would allow access to the rear yard from the back lane, for occupiers of the proposal and existing occupiers of the flats. While the proposal would result in a minor increase in the size of this rear yard, it would not provide suitable outdoor amenity space for future occupiers of the appeal scheme, on the basis that it would not be private, being directly overlooked by the rear windows of the host property, and because the quality of this space would be limited due to its use for bin storage for the proposal and the existing flats.
5. Future occupiers of the proposal would also have access to a shared terrace to the front of 22 Aberdeen Walk. This terrace, which is presently available to occupiers of the existing flats, is small in size, and lacks privacy. It would be

separated from the appeal scheme by the host property and so future occupiers of the proposal would have to either walk through the entrance hall of the existing flats at no 22, or around the terraced block, to access this area, and so, it would not be conveniently located.

6. Policy DEC 4 of the Scarborough Borough Local Plan, July 2017, (LP), does not specify any space standards for the delivery of private outdoor amenity space in new residential development. However, it does require that future occupants are provided with a good standard of amenity. This is a matter of planning judgement in each case. None of the outdoor areas available to the appeal scheme would provide a high standard of private outdoor amenity space for future occupiers of the proposal and so the proposal would conflict with the requirements of LP policy DEC 4 in this regard.
7. There would be areas of public open space within walking distance of the appeal site, one such space being the green at Albermarle Crescent. However, this would not afford occupiers of the appeal scheme any private outdoor amenity space. The provision of some private outdoor amenity space is not an unreasonable requirement, in terms of delivering high quality and well-designed places that promote health and well-being, with a high standard of amenity for future users.
8. With regards to the level of natural light, the upper floor living accommodation would benefit from patio doors facing southwest, as well as four rooflights. As such, despite the built-up nature of the area, this upper floor living accommodation would likely benefit from an adequate amount of natural light. However, at ground floor level, the proposed living accommodation would benefit from only one window facing northwest, separated from the boundary wall of the yard by the width of a pedestrian gate. As such, the proposed ground floor accommodation would be likely to experience a lack of natural light, providing a poor standard of living conditions for future occupiers. This would result in further conflict with LP Policy DEC 4, in terms of providing a good standard of amenity for future occupiers.
9. For these reasons, the proposal would not provide suitable living conditions for future occupiers, with particular regard to the level of outdoor private amenity space and the level of natural light, conflicting with LP Policy DEC 4, the purposes of which have been set out above.

Character and Appearance

10. The appeal scheme would be positioned along Albermarle Back Road, which is a back lane providing rear access to a number of properties. As such, there is no typical street frontage, with most dwellings in the locality presenting principal elevations onto the main roads, rather than their associated back lanes.
11. However, extensions, outbuildings and garages are not uncommon to Albermarle Back Road and these come in a variety of forms. The information before me references an outbuilding to the opposite side of the lane, at the rear of Albermarle Crescent, which I observed at my site visit to have the appearance of a separate dwelling, albeit I have no planning history to confirm this. It is suggested that other outbuildings adjoining no 22 are also used as separate dwellings but again, no planning history has been provided confirming that this is the case. Nevertheless, the appeal scheme would not be out of scale with the built form of other extensions and outbuildings along this back

lane. Its scale would be similar to the existing building in the neighbouring yard, and it would remain subservient in size to the host property.

12. While the rear elevation of the proposal would include some domestic fenestration, it would not introduce a domestic frontage typical of a principal elevation. As such, the design and appearance of the proposal, along with the proposed materials, would adequately retain the overall appearance of the lane, without appearing cramped, and so it would not appear incongruous in the context of existing development.
13. While the appeal scheme would introduce the associated comings and goings of a typical dwelling to the rear lane, rather than to the main road frontage, these movements would be limited in number. Given the number of garages and rear accesses along Albermarle Back Road, these movements would not necessarily be out of character with the area.
14. For these reasons, the proposed development would not harm the character and appearance of the area. The proposal would comply with LP policies DEC 1 and DEC 3, which collectively and amongst other matters, require that the detailed design of new development responds positively to the local context, in terms of its scale, form, height, layout, materials, colouring, fenestration and architectural detailing, and that the density of development is in keeping with the character of the local area.

Other Matters

15. The site lies adjacent to the Scarborough Conservation Area (SCA). For the above reasons, I have concluded that the proposal would not harm the character and appearance of the area, which includes the SCA. The setting of the SCA would be conserved and any significance derived from it, would not be adversely affected.
16. An existing breeze block building within the rear yard of no 22 Aberdeen Walk is referred to by the appellant as a bedsit and the plans indicate that this provides a living/bedroom area, kitchen and bathroom. The appellant indicates that this bedsit has its own address and is subject to council tax payments. However, there appears to be some dispute between the parties as to the number of existing flats at the property. The Council references 7 flats, while the appellant references 8 flats, including the bedsit within the breeze block building.
17. No lawful development certificate or planning permission has been provided relating to the lawful use of this breeze block building. The available evidence is not sufficient to allow me to reach a definitive position as to its lawful use as a residential unit. As such, the weight to be afforded to any change in the standard of living conditions resulting from the replacement of this existing building, is limited, and is insufficient to outweigh the harm identified in relation to the first main issue.
18. The proposal would be an efficient use of land and no concerns are raised with regards to any adverse impacts on occupiers of the existing flats within the host property. No objections have been raised by third parties or consultees. These matters do not outweigh the concerns highlighted above relating to the living conditions proposed for future occupiers.

19. The appellant indicates that the Council's decision has contradicted earlier advice. The National Planning Policy Framework stresses the benefits of early engagement and of good quality pre-application discussion. While such advice is not binding, it is clearly unfortunate if proposals are amended but then the final outcome is an adverse one and I appreciate that this will have been a disappointment to the appellant. Nevertheless, at appeal, the proposal is considered afresh and any such advice does not warrant allowing the appeal in the circumstances of this case.

Conclusion

20. The proposal would not provide suitable living conditions for future occupiers, with particular regard to the level of outdoor private amenity space and the level of natural light. While the development would not result in any significant harm to the character and appearance of the area, this lack of harm is a neutral matter, which does not outweigh the concerns identified relating to living conditions. For these reasons, the appeal scheme would conflict with the development plan, and there are no other material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

S Brook

INSPECTOR