



Appeal Decision

Site visit made on 3 June 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/W9500/D/24/3339589

43 Brook Lane, Ainthorpe, Whitby, North Yorkshire YO21 2LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Colin Simmons against the decision of North York Moors National Park Authority.
- The application Ref NYM/2023/0868, dated 19 December 2023, was refused by notice dated 12 February 2024.
- The application sought planning permission for demolition of garage/store, two storey side extension and infilling trench to rear without complying with a condition attached to planning permission Ref NYM/20222/0001, dated 24 February 2022.
- The condition in dispute is No 2 which states that: *"The development hereby permitted shall not be carried out other than in strict accordance with the following documents: Amended Plan 09 February 2022, or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority."*
- The reason given for the condition is: *"For the avoidance of doubt and to ensure that the details of the development comply with the provisions of NYM Strategic Policy A and NYM Strategic Policy C, which seek to conserve and enhance the special qualities of the NYM National Park"*.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. An extension to the appeal property was granted planning permission¹ in February 2022 subject, amongst others, to a condition requiring adherence with the approved documents ('Condition 2'). Although an extension has since been built at the property, I understand that it is not reflective of the previously approved plans and an application was submitted in order to vary the approved documents to align with the extension as constructed. This was subsequently refused by the authority.
3. I observed that the extension has been built and appeared to be substantially complete. It also appeared to reflect the plans that are before me. I have therefore considered the appeal on a retrospective basis.

¹ NYM/2022/0001

Main Issue

4. The main issue is the effect of varying the condition upon the character and appearance of the area, including the North York Moors National Park ('NYMNP').

Reasons

5. As the appeal site is located within the NYMNP, I am mindful of the requirement to seek to further the purposes of the NYMNP, which includes conserving its natural beauty and cultural heritage. Paragraph 182 of the National Planning Policy Framework ('the Framework') states that National Parks have the highest status of protection, and that great weight should be given to conserving and enhancing their landscape and scenic beauty. The NYMNP is characterised, amongst other things, by the variety and quality of its landscapes, the distinctive character of its settlements and the way in which these factors interact.
6. The appeal property is located at the end of a range of buildings including a public house, situated opposite an area of public open space and fronting Brook Lane. The road slopes in a pronounced uphill direction when travelling away from the core of Ainthorpe, with the appeal site forming the lower, downhill end of the collection of buildings. Situated nearby are other, generally detached residential properties with a prevailing, but not exclusive, use of stone construction and pantile roofs. Front elevation window openings are generally located close to eaves height.
7. In comparison to the previously approved scheme, the extension as built is set further back from the front elevation of the host property. However, as the site slopes upwards from the road frontage, this has led to both the eaves and ridge height of the extension being higher relative to the host property, than originally approved. Despite these changes, the extension continues to sit below the ridge and eaves height of the host property. It is also set back from the front elevation and remains a clearly smaller structure. As a result, it is subservient to the host property. The materials used in the extension are also appropriate to the character of the local area.
8. However, the alterations have led to a large gap between the top of the front elevation window openings and the roof eaves. This is uncharacteristic of the area, where upper-storey window openings in domestic properties are generally situated close to the roof eaves level or are positioned to serve a ground floor. Whilst I acknowledge that the arrangement utilised may have resulted from the relative position of internal floor levels due to the extension being located on higher ground, nevertheless, the resultant external appearance is discordant with the strong character of this part of Ainthorpe in relation to the treatment of fenestration.
9. Therefore, the development harms the character and appearance of the area. In doing so it is contrary to Strategic Policy C and Policy CO17 of the North York Moors National Park Authority Local Plan (2020). Together and amongst other factors, these policies state that development within the curtilage of dwellings should take full account of the character of the local area, and that development will be supported where it is of a high quality of design and reflects and complements the architectural character of the local vernacular.

10. Moreover, the development conflicts with advice at Paragraph 135 of the Framework, which amongst other factors, states that planning decisions should ensure that developments are visually attractive as a result of good architecture, and conflicts with advice contained within the North York Moors National Park Authority Local Development Framework Design Guide Supplementary Planning Document (2008) which highlights that windows and doors should be well related within the elevation of residential extensions.
11. Additionally, being mindful of my duty to further the purposes of the NYMNP, I afford substantial weight to the harm that I have identified.

Other Matters

12. My attention has been drawn to the character of a garage which previously occupied the site of the extension, which was said to be derelict, and that the extension as built represents a substantial improvement. However, as the garage has already been removed, this is a factor that does not weigh in favour of the development.
13. Equally, even if I were to agree the development does not harm the living conditions of the occupiers of nearby properties, has not resulted in harm to biodiversity interests or has not negatively affected local amenities, the absence of such harm would also be neutral factors.
14. I acknowledge the appellant's concern with regard to the conduct and service they have received from the Authority, however this is unrelated to the merits of the case. The potential for further enforcement action, and whether any such action would be proportionate, is a matter for the Authority to consider and falls outside the scope of this appeal.

Conclusion

15. The proposal conflicts with the development plan when read as a whole. There are no material considerations, including the Framework, which indicate that a decision should be taken other than in accordance with it. Therefore, the appeal is dismissed.

C Harding

INSPECTOR