



Appeal Decision

Site visit made on 6 August 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Appeal Ref: APP/E2734/W/24/3343446

**Store Rear Of 2 College Street, College Road And College Street Rear,
Harrogate, North Yorkshire HG2 0AH**

- 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 W Rushworth against the decision of North Yorkshire Council.
 - The application Ref is ZC23/03378/FUL.
 - The development proposed is the conversion of existing coach house (storage use) to single dwelling (revised).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form states that the appeal is made against the decision of Harrogate Borough Council. However, on 1 April 2023 Harrogate Borough Council merged with a number of other Councils to form a new Unitary Authority known as North Yorkshire Council. The planning application to which this appeal relates was submitted after that time and the decision notice bears the name of North Yorkshire Council. I have reflected this in the banner header above.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and therefore I have referred to that revised document in my determination of this appeal. I am satisfied that the parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration.

Main Issue

4. The main issue relates to living conditions in the following respects:
 - (i) The effect of the proposal on the living conditions of the occupiers of nearby dwellings with regard to overlooking
 - (ii) Whether the proposal would provide acceptable living conditions for its future occupiers with regard to outlook

Reasons

Existing occupiers

5. The appeal building sits to the rear of 2 College Street and is understood to have originally been a coach house associated with that property. It is located

on the corner of Calder Road and the access road that serves the rear of properties on both College Street and College Road. It is also in close proximity to those dwellings which front onto Otley Road. As a result, it is considerably constrained in terms of where windows and openings could be positioned on the building without giving rise either to unacceptable overlooking being possible on to the nearby dwellings, or in terms of failing to provide adequate privacy for the occupiers of the proposed dwelling itself.

6. The proposal would retain the existing door at first floor level which faces towards the properties on Otley Road. The plans submitted indicate that the small window in that door would be obscurely glazed but that the door would be openable. When open, that door would allow intrusive overlooking onto the adjacent dwellings and their rear garden areas, in particular onto the dwelling at 111 Otley Road. However, this harm could be overcome by the appellant's suggested use of a planning condition to ensure that the door did not open. The window to the opposite gable end would serve the bathroom of the proposed dwelling and would be obscurely glazed. Because of that and its positioning relative to other existing buildings and dwellings, I am satisfied that there would be no harm from overlooking from that window.
7. The appellant refers to the fact that the properties in this area are old and not necessarily laid out to modern standards or separation distances such as those specified in the House Extensions and Garages Design Guide Supplementary Planning Document 2005 (SPD). This does not however justify the permitting of a new development that would cause harm from overlooking, and therefore the provisions I have outlined to prevent overlooking are reasonable and necessary. I am not persuaded that a storage use would generate an equivalent degree of overlooking on a day-to-day basis in comparison to a residential use, to the extent that it could be said that the proposed new use would result in a betterment in terms of overlooking potential.
8. Other openings may have existed previously on the appeal building, but I have no details of these before me and they no longer exist. My attention has also been drawn to windows on the side elevation of 2 College Street, which is currently undergoing redevelopment. Those windows face towards the dwellings on Otley Road from the same distance as the appeal property, but nothing has been provided to enable an understanding as to how comparable their circumstance might be to the appeal development, including in terms of how long those windows have been in place. They too do not therefore justify the permitting of what would, without mitigation to prevent overlooking, be a harmful development.
9. Subject to the use of obscure glazing to the two first floor gable ends and the imposition of a condition requiring the first-floor door to be non-opening, there would not be the potential for overlooking to occur from the first floor of the proposed development. There is no concern as to the possibility of overlooking from any of the ground floor openings. Therefore, in that respect the proposal would accord with the aims of Policy HP4 of the Local Plan 2020 (LP) where it seeks to ensure that development proposals do not result in significant adverse impacts on the amenity of neighbours. There would also be no conflict with the aims of the SPD in that regard or with the Framework where it seeks to achieve well-designed and beautiful places.

Future occupiers

10. The necessity to prevent overlooking, along with the aforementioned constrained nature of the site which places two of its elevations directly adjacent to the highway, does however mean that the opportunities to provide an outlook from within a dwelling contained within it would be limited. Specifically in this instance, the provisions in that respect would encompass two roof lights and the obscurely glazed door window to serve the first-floor bedroom and sitting space, and high-level windows on the north and west elevations along with bifold doors on the south elevation.
11. The roof lights and door glazing would provide light but not an outlook as such. This means that the first-floor space would be a space devoid of an outlook. Given that the primary living space would be on the ground floor, this in itself would not sustain a reason for refusing planning permission. However, on the ground floor the high-level windows would also not provide a reasonable outlook from within the rooms that they would serve due to their height, which in terms of the lowest of the lounge windows is denoted on the plans as being 1.6 metres to cill level.
12. The outlook available from the bifold doors would be reduced because it would be onto high boundary walling which would be in close proximity, and this would not be improved even if softened by planting. Furthermore, the bifold doors would be relatively narrow in width and somewhat distant from the lounge area. For these reasons the lounge area would be a particularly oppressive space to spend time because of its poor outlook. When considered with the lack of outlook from the first floor, there would be a failure to provide acceptable living conditions for the future occupiers of the proposed dwelling in the areas in which they would spend the most time.
13. The appellant questions whether the matter of outlook is a material consideration in light of the wording of Policy HP4 of the LP. They also refer to the SPD, the Framework and to certain permitted development rights for the conversion of buildings to dwellings which also do not explicitly reference outlook for future occupiers. Although Policy HP4 does list some specific considerations such as overlooking, loss of privacy and loss of light, the policy itself is entitled 'Protecting Amenity'. Its first sentence says that '*development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours*'. Where it outlines amenity considerations, it sets out what these will include, but it does not specify that this is a closed list.
14. I do not therefore concur with the appellant's suggestion that outlook should be disregarded as a consideration when assessing a proposal against Policy HP4 of the LP or indeed in general. The Framework further requires a high standard of amenity for existing and future users which to my mind should include a consideration of outlook. The appellant makes reference to there being no right to a view, but the matter at hand is not whether a view would be lost or even if there would be a view of anything at all. It is instead whether occupiers of the proposed dwelling would be able to take an outlook from their internal spaces that would provide them with reasonable living conditions. For the reasons I have set out, I find they would not.
15. The absence of an acceptable outlook is not overcome by the consideration that adequate light levels might be able to be provided within the proposed

dwelling, or because the proposal would not in any other way cause harm to the living conditions of its future occupiers or those of nearby existing occupiers. Again, the age of the surrounding development and any considerations arising from how dwellings were built and laid out at that time does not justify the permitting of a new development that would cause harm.

16. In conclusion, I find that the proposed development would fail to accord with Policy HP4 of the LP where it seeks to ensure that development proposals do not result in significant adverse impacts on the amenity of occupiers. There would also be a conflict with the aims of the Framework where it seeks to provide a high standard of amenity for future users. Whilst the appellant contends that the SPD should carry little weight due to its age and suggests that it is not part of the statutory development plan, in any event it does not assist their case in terms of this main issue.

Other Considerations

17. The Council acknowledges in its Officer Report that it is not meeting its statutory duty under the Self-Build and Custom Housebuilding Act 2015 to give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. The appellant states that the proposed dwelling would be a self-build property and the Council does not dispute that it is capable of being such. The delivery of a self-build dwelling in the context set out is a consideration that would carry significant weight in favour of the development.
18. Policies GS2 and GS3 of the LP seek to direct new homes to within the district's main settlements and to within the development limits of existing settlements. There is no doubt that the appeal site is sustainably located within the urban area of Harrogate. The Framework seeks to promote the effective use of land, including the re-use of previously developed land and to deliver housing that meets the needs of different groups in the community, all of which the appeal proposal would do. Due to the quantum of development proposed, these considerations carry moderate weight in its favour.
19. My attention has been drawn to other examples of coach houses and outbuildings that have been approved to be turned into dwellings which are located close to the appeal site. No specific details have however been provided to demonstrate how similar they might be to the appeal proposal in terms of the outlooks they provide, and the Council considers there to be differences between them and the appeal proposal. I cannot be sure that they are directly comparable to the proposal that is before me, but irrespective of that I am not bound by previous decisions of the Council. Those other developments would not therefore justify my permitting of a development that I have found would fail to provide acceptable living conditions for its future occupiers.
20. That there would not be harm with regard to matters such as drainage, ecology and highways are neutral considerations in the planning balance.

Planning Balance and Conclusion

21. The development would fail to provide acceptable living conditions for the future occupiers of the proposed dwelling with regard to outlook. Consequently, it would fail to accord with Policy HP4 of the LP and with the development plan

as a whole. Balanced against this it would provide the benefits I have outlined which carry significant and moderate weight. However, those benefits do not justify the allowing of a development that would fail to provide acceptable living conditions for its future occupiers and therefore they do not outweigh the harm that would result and the conflict with the development plan.

22. In conclusion therefore, I find that the other considerations in this case do not indicate that a determination should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Graham Wright

INSPECTOR