

Appeal Decision

Site visit made on 5 September 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2024

Appeal Ref: APP/U2750/D/24/3344888

Malton Lodge, Princess Road, Malton, North Yorkshire YO17 7JP

- 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 and Mrs Peter Foy against the decision of North Yorkshire Council.
 - The application Ref is ZE23/06949/HOUSE.
 - The development proposed is the erection of a part two-storey/part single-storey rear extension following demolition of existing outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a part two-storey/part single-storey rear extension following demolition of existing outbuildings at Malton Lodge, Princess Road, Malton YO17 7JP in accordance with the terms of the application, Ref ZE23/06949/HOUSE, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos, PD397-02-C, PD397-03-D and PD397-04-A.
 - 3) The roofing material to be used on the main pitched roof of the development hereby permitted shall match that used on the main pitched roof of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matters

2. I have used the description of development stated on the decision notice and in the appellant's Statement of Case in the banner header and formal decision above, as it better describes the extent of the proposed development.
3. In accordance with the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given special regard to the desirability of preserving the Behrens Mausoleum and the New Malton Cemetery Chapel and Chapel of Rest or their setting or any features of special architectural or historic interest which they possess.

Main Issues

4. The main issues are the effect of the proposed development on (i) the character and appearance of the host building, (ii) the setting of the grade II listed Behrens Mausoleum and (iii) the living conditions of the occupiers of nearby dwellings with reference to overlooking.

Reasons

Character and appearance

5. Malton Lodge sits adjacent to the entrance to Malton Cemetery and is an attractive stone-built building. Although the Council refer to it as being a Non-Designated Heritage Asset (NDHA) they have provided nothing substantive to explain their position on this, other than a brief statement that the building is considered to be of an historic and aesthetic value to the locality. I have not been made aware that the appeal property appears on the local list of NDHAs. As a whole, it has not been demonstrated that the Council's position that the property is a NDHA is based on sound evidence, as is advised should be the case by the Planning Practice Guidance¹.
6. Conversely, the appellant has provided detailed commentary in their Heritage Statement as to why they consider that the lodge does not meet the threshold for being a NDHA. This includes the likelihood that, on the evidence available, what exists at the present time was not the original gatehouse for the original cemetery, having undergone substantial extension and alteration since it was first built. That it was not listed when other parts of the cemetery, such as the Chapel and Chapel of Rest were, lends weight to the suggestion that in its present form it does not have a contemporaneous historical association with the creation of the cemetery. I am not persuaded that its aesthetic value alone justifies classification as a NDHA.
7. Nonetheless, the lodge makes a positive contribution to the character and appearance of the surrounding area, with its front elevation being prominent along the access road which leads from Princess Road to the entrance to the cemetery. Its side and rear elevations are also visible from a number of vantage points within the cemetery itself. The proposed extension would be a large extension to the existing lodge, projecting a considerable distance beyond the existing rear elevation. Its impact would be most notable from views taken from within the cemetery and from adjacent dwellings, with there being a much lesser impact when viewed from its front and from the cemetery access road.
8. Although large in size, the proposal has been designed to sensitively integrate with the host property without dominating it, and it would use appropriate facing materials. Its ridge and eaves would be kept lower than the host dwelling and this, alongside the separation provided by a flat roofed link, would be successful in ensuring that the visual integrity of the existing lodge was retained. Almost all of its ground floor would be concealed from views from the cemetery by boundary walling and a large storage shed. Whilst the existing double-pitched roofline to the rear would be disrupted, it is the front

¹ Paragraph: 040 Reference ID: 18a-040-20190723

elevation of the lodge which contributes the most to the building's overall character and appearance, and this would be unaffected.

9. Taken as a whole and for the reasons I have set out, I conclude that the proposal would be a sensitive extension to its host building and would not result in harm to its character and appearance. As such it would accord with Policy SP16 of the Ryedale Local Plan Strategy 2013 (LP) where it seeks to promote high quality design.

Listed buildings

10. The Behrens Mausoleum sits directly opposite the front elevation of the appeal property. Its listing describes its physical features and the appellant's heritage statement suggests that it may have some historical interest deriving from its positioning outside of the cemetery. What is clear however is that the front elevation of the host property would be retained unaltered, and the relationship of the property and the mausoleum would not change to any significant extent on the approach to the cemetery. There are some longer views within the cemetery where the lodge and the mausoleum are viewed together, but the space between the two and their general relationship would be unaffected. Given these factors and that I have found the proposal to be a visually appropriate addition to the host building, I am satisfied that there would be no harm to the setting of the Behrens Mausoleum.
11. Although not referenced in the reason for refusal, the Officer Report highlights the presence of the grade II listed New Malton Cemetery Chapel and Chapel of Rest near to the appeal site. This building is further away from the appeal property than the mausoleum, and again the space around it and general appreciation of it would be unaffected by the proposed development. Whilst there are some views in which the two would be seen together, including through the archway of the chapel looking towards the appeal site, the level of physical separation and the sensitive design of the appeal proposal mean that there would be no harm to the setting of this listed building either.
12. In conclusion, the proposal would not cause harm to the setting of the listed buildings located close by. Consequently, it would accord with Policy SP12 of the LP where it seeks to conserve designated heritage assets.

Living conditions

13. The nearest residential properties are located on Ropery Walk to the east and south of the appeal site. The east elevation of the appeal proposal would contain a first floor window serving a bedroom, but this would be angled towards the end section of the garden of 7 Ropery Walk and be a distance of well over 14 metres from the site boundary. This would ensure that there would not be harmful overlooking from the window in question onto No 7 and no harm to the living conditions of the occupiers of that property.
14. The first floor windows in the south elevation would be high level rooflights angled upwards in the roof. They would also be well separated from the south boundary and the nearest dwellings at 5 and 6 Ropery Walk so to ensure that they would not give rise to harmful overlooking. The existing hedges on the

boundaries along with the separation distances would ensure that there would be no harm from overlooking from the ground floor windows.

15. For these reasons the proposed development would accord with Policy SP20 of the LP where it seeks to protect living conditions. There would also be no conflict with the aims of the National Planning Policy Framework in the same regard.

Conditions

16. It is necessary to impose conditions setting out the time period to commence the development and outlining the approved plans in order to provide certainty. The plans submitted specify the materials to be used with the exception of the roofing material, and therefore it is necessary to include a condition relating to that material only. The rooflights are at a sufficient height above the floor level so to ensure that no harmful overlooking would occur whether they were centre pivot opening or otherwise. Therefore, I will not impose the Council's suggested condition relating to that matter.

Conclusion

17. For the reasons given above, the appeal should be allowed.

Graham Wraight

INSPECTOR