



Appeal Decision

Site visit made on 19 November 2024

by P D Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2024

Appeal Ref: APP/E2001/D/24/3348432

27 Market Place, South Cave, East Riding of Yorkshire HU15 2BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Matt John against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/00567/VAR.
 - The application sought planning permission for erection of two storey and single storey extension to rear following demolition of existing single storey extension and erection of single storey outbuilding to rear without complying with conditions attached to planning permission Ref 23/03621/PLF, dated 15 February 2024.
 - The condition in dispute is No 3 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans: 2405.02; 2405.03; 2405.04; 2405.08.
 - The reason given for the condition is:
This condition is imposed in accordance with policies ENV1 and ENV3 of the East Riding Local Plan and for the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details in the interests of the character and amenity of the area and the provisions of the development plan.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The *Planning Practice Guidance* (PPG) states that material amendments to a permitted planning proposal can be made by application under S73 where, as in this case, a condition requires development to be in accordance with approved plans and where the change only relates to conditions and not to the operative part of the permission. The change in this case is only to enlarge the rear single storey extension and therefore the change would not affect the 'operative part' of the permission.

Background and Main Issue

3. The revised design proposed for the rear single storey extension would mean that the original condition No 3 could not be complied with.
The main issue is whether the removal of original condition No 3 and its replacement, referring to the revised plans, would result in any adverse effect:
 - on the character and appearance of the host property and the South

Cave Conservation Area.

- on the living conditions of present and future occupants of No 29 Market Place in respect of proximity and outlook.

Reasons

Character and appearance

4. No 27 Market Place is a two storeyed cottage in a run of four similarly narrow-fronted cottages in Market Place within the South Cave Conservation Area. The cottages are constructed in stone, render and tile and front directly onto the street. To the rear, as with its neighbours, No 27 already has the benefit of two storey and single storey extensions which would be replaced in the permitted scheme with a pitched roof, two storey extension and a large, single storey extension across the full width of the property.
5. The existing permitted scheme of extensions at the property would be already a very large increase on the size of the original property. In part this is understandable given the small size of the original cottage and in part justified by the improved appearance of the pitched roof, two storey section in place of the existing flat roof, which would be much more in keeping with the character of the cottage.
6. However, the addition of the further rear extension, as a result of it extending considerably beyond the width of the original house and the added depth, would appear disproportionate to the cottage and would significantly and adversely change its character and appearance. It has been put to me that the size of the plot is more than adequate to take the scale of extension but plot size is not the issue here, it is the scale of the proposals in the context of the original cottage which would be of concern.
7. Moreover, the increased flat roof area would appear as an alien feature in the Conservation Area. Although there are some small areas of flat roofing evident along the rear of the properties, none of these are of the scale and extent now proposed for the appeal property.
8. I acknowledge that the flat roof and scale of the extension would not be seen from the public domain. However, there would be private views of it from neighbouring properties in which it would appear out of keeping with the prevailing character of the Conservation Area. In any event, within a conservation area, the fact that a development cannot be seen from the public realm is not a justification for unsympathetic design.
9. The *National Planning Policy Framework* (the Framework) at paragraph 135 requires that developments must be sympathetic to local character and history amongst other things and in these respects the proposal would fail. *East Riding Local Plan Strategy* (ERLPS) Policy ENV1 reflects the Framework in requiring development to have regard to the specific characteristics of the site's context and surroundings. For the above reasons i.e. the positioning, scale and design of the additional rear extension, the proposal would have an unacceptable impact on the established character and appearance of the host property and constitute harm to the Conservation Area. As such the requirements of the Framework at section 16 and ERLPS Policy ENV3 would not be met.

10. Section 72(1) of the *Listed Buildings and Conservation Areas Act 1990* requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. I accept that the harm to the Conservation Area I have identified would be less than substantial and in these circumstances the Framework at paragraph 208 allows for any public benefits of the proposal to be taken into consideration. In this case the appellant has presented no public benefits. Any benefit from the cumulative extension would be a largely private benefit to the owners and occupants of the property. As such the harm to the Conservation Area would not be outweighed and the proposal would fail to at least preserve the Conservation Area.
11. It was to ensure the permitted development accorded with ERLPS Policies ENV1 and ENV3 that condition No 3 was attached and is still therefore necessary and reasonable. Given the harm to character and appearance of the dwelling and Conservation Area which the revised proposal would bring, varying condition No 3 to enable a different plan to be substituted would be unacceptable.

Living conditions

12. The plot at No 27 wraps around the rear of its neighbour No 29 and the proposed amended scheme would further extend the permitted ground floor extension into this section of the plot.
13. The result of this would be to completely enclose the rear of No 29 which has only a very small yard area. I accept that this yard is already enclosed with a close boarded fence between it and the rear pedestrian access to No 27 restricting the outlook from the patio windows. However, the proposed enlarged extension at approximately 3.5 metres in height, even allowing for it being set at a slightly lower level relative to No 29, would still extend above the current fence and further enclose and dominate the outlook from No 29.
14. I acknowledge that the current occupant of the house has not objected. However, that is not to say that future occupants of the property would not find the impact on outlook unacceptable.
15. The Framework at paragraph 135 requires development to achieve a high standard of amenity for existing and future users of land and buildings, a requirement that is reflected in the ERLPS at Policy ENV1 and the revised scheme fails in this regard. It was to ensure the permitted development accorded with this policy that condition No 3 was attached and is still therefore necessary and reasonable. Given the harm to living conditions which the revised proposal would bring, varying condition No 3 to enable a different plan to be substituted would be unacceptable.

Other Matters

16. I understand the appellant's wish to further improve the accommodation in the property and make sustainable and effective use of it as a family home, enabling the appellant to stay in South Cave and support family dependents. However, although the Framework encourages the efficient use of housing land at section 11, it states in paragraph 128 that development should take into account the desirability of maintaining an area's prevailing character and setting. The appellant already has permission for substantial extensions to the property and the benefit of further extending the property would not outweigh the harm to character and appearance and living conditions that would arise.

Conclusion

17. Erection of the larger extension as set out in the revised plans would result in harm to both the character and appearance of the property and its Conservation Area surroundings and harm to living conditions contrary to ERLPS Policies ENV1 and ENV3. The variation of condition No 3 to include these revised plans would therefore be unacceptable. Condition No 3 of the original permission (23/03621/PLF) is therefore still necessary and meets the condition tests set out in the Framework and the PPG.
18. I have had regard to the matters before me. For the reasons above Condition No 3 should not be removed or varied and the appeal should be dismissed.

P. D. Biggers

INSPECTOR