



## Appeal Decision

Site visit made on 3 March 2025

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

### Appeal Ref: APP/U2750/W/24/3358279

### 143-145 Burniston Road, Scarborough, North Yorkshire, YO12 6QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Lloyd Kelly of Peter Kelly GB Ltd against North Yorkshire Council.
- The application Ref is ZF24/00332/FL.
- The development proposed is the removal of the existing building which is 2 existing flats and then to build 1 new 3 bed bungalow and a new 4 bedroom house - all with on site parking.

### Decision

1. The appeal is dismissed, and planning permission is refused.

### Main Issues

2. The Council's case confirms that had it determined the application, it would have refused to grant planning permission due to the loss of the long rear garden and the siting of the proposed bungalow detracting from the established spatial character of the area; due to the design of the replacement dwelling to the front of the site failing to reflect local context; and due to the effect of the development on the living conditions of occupiers of 147 Burniston Road, with regard to noise, disturbance and outlook. I have also had regard to the concerns raised by interested parties and those raised in previous appeal decisions for similar forms of development on the site.
3. The main issues are therefore the effect of the proposed development on i) the character and appearance of the area and ii) on the living conditions of future occupiers of the development and occupiers of neighbouring No.147 Burniston Road.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a large two-storey detached house, with a room in the roof space, that has been sub-divided into two flats. The front garden has been hard surfaced to provide parking although there is also a driveway to the side of the house, providing vehicular access to a double garage and further parking at the rear. Beyond the garages there is a substantial garden, which has not been sub-divided between the two flats and is currently overgrown and unused. The existing property, which has been significantly altered and extended, is not of any historic or architectural merit, and has a neutral effect on the appearance of the

area. As such its loss would not be harmful to the area but any replacement development must be of high-quality design, which reflects its surroundings.

5. The site is situated in a predominantly residential area, within a block of built development formed by dwellings fronting Seaview Avenue, Hillcrest Avenue and Burniston Road. There is a maintenance compound associated with the adjacent golf course to the south of the site and a public house/hotel opposite the site, on the junction of Burniston Road and Scalby Mills Road. Surrounding dwellings comprise a mixture of houses and bungalows of varying design and appearance with rear gardens of varying size and length. Although the dwellings and gardens in this area are far from uniformed, the dwellings are generally of traditional design and materials. External walls are predominantly red brick and render, and roofs are mostly hipped or pitched with the main ridgeline running parallel to the highway, some smaller gable projections, and are covered with either red clay or slate tiles.
6. I see no reason why the site could not accommodate a pair of dwellings in place of the two flats, particularly given the size and width of the plot, the building line being set well back from the road, and frontage hardstanding and parking being a common feature of the area. However, the proposal before me, like those schemes previously refused by the Council and dismissed at appeal, relates to a tandem form of development, whereby one dwelling is located behind the other, sharing the same access. I note that tandem developments are not common in the immediate area, but this does not necessarily mean that such development would result in harm to its character and appearance. No planning policies or guidance restricting tandem development in this area have been drawn to my attention.
7. Although the bungalow to the rear would be different to other dwellings in the area in terms of how it is sited and accessed, its scale, hipped roof design and traditional fenestration would be reflective of other buildings in the surrounding area. Due to its single storey nature, and its backdrop of a large dormer bungalow on higher ground to the west, the bungalow would not be visually prominent within the Burniston Road street scene. Whilst the increased length and width of the access driveway to the rear of the site, and at least part of the bungalow would be visible in glimpsed views between the frontage houses, such views would be very limited. The bungalow and garage would effectively complete the perimeter block but would not have street frontage. Their effect on the pattern of development in the area would be little different to that which could result from the construction of large single storey domestic outbuildings in the rear garden.
8. However, due to the siting of the proposed bungalow and the positioning of habitable room windows, there would be insufficient space to implement and retain any meaningful boundary landscaping, to screen or soften the appearance of the new development from the open land forming part of the golf course to the south.
9. The new frontage dwelling would have an asymmetrical roof with its ridgeline running perpendicular to the highway and a staggered front elevation. Whilst this would not necessarily be unacceptable in principle, the shallow pitched roof front gable projection, would appear disproportionately tall and narrow. The set back section of the front elevation would be entirely glazed, but the glazing would not align with that in the front gable projection. The side elevations, which would be highly visible given the staggered building line and space between buildings, would appear vast, particularly the south facing side, due to the high eaves level and

shallow roof pitch. Both sides would also comprise a variety of randomly placed windows of varying proportions and orientation, which would be either immediately adjacent to the shared access drive, or again within a metre of the site boundary leaving no space for landscaping.

10. No detailed information has been submitted to explain or justify the design. Whilst I have been provided with a series of annotated photographs of other buildings and sites in the local area, there is no accompanying explanation of their relevance to the appeal site or of the circumstances that led to them being granted planning permission. Furthermore, none of the schemes in the photographs appear directly comparable to the proposal before me. Two of the schemes relate to large developments comprising an apartment block and a care home, others to modern refurbishment of individual dwellings, which retains their original form. Section 7 of the Scarborough Borough Council Residential Design Guide Supplementary Planning Document 2022 (Residential Design Guide SPD) includes an image of a dwelling of contemporary design with an asymmetrical roof and a high level of glazing, within its good practice examples. However, the example shown is better executed and proportioned with a steeper roof pitch, some more traditional fenestration features and energy efficiency measures.
11. Whilst I have noted that there are examples of modern and contemporary architecture in the wider surrounding area, I must determine this case on its own merits. The scheme before me is not considered to be poorly designed simply because it looks different to the traditional houses adjacent to it, but because it is poorly proportioned and detailed, and fails to be informed by any local features or characteristics. Other examples drawn to my attention, such as 101 Burniston Road, have successfully incorporated contemporary feature glazing and a balcony, without compromising the traditional proportions and roof form of the original building.
12. I therefore conclude that although the demolition of the existing flats and their replacement with two new dwellings could be acceptable in principle, the scheme before me is not of satisfactory design and layout and fails to demonstrate that a green edge between the site and the golf course could be effectively incorporated and retained. Consequently, the development would be harmful to the character and appearance of the area and would fail to accord with Policy DEC1 of the Scarborough Borough Local Plan July 2017 (the local plan), which seeks amongst other things to ensure that new development would respond positively to the local context and be appropriate in terms of its layout and architectural detailing.
13. The proposal would also fail to accord with paragraph 135 of the National Planning Policy Framework (the Framework), which despite not preventing or discouraging appropriate innovation or change, requires new development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Likewise, Section 7 of the Residential Design Guide SPD, which is a material consideration, states that local vernacular should not stifle high-quality contemporary designs that enhance character but advises that contemporary design should be inspired by local context and should incorporate landscaping plans and proposals.

### *Living conditions*

14. The site is bound by a pair of semi-detached houses to the north and a golf course to the south. There is an existing driveway, which is approximately 3.5 metres wide to the side of the existing property, and the same to the side of neighbouring No.147. Although the frontage dwelling is being demolished and replaced, no opportunity has been taken to relocate or increase the width of the driveway or to incorporate a footpath and fence to act as a buffer between the side of the new house and the access drive.
15. As the existing property at No.143-145 comprises two flats, and the occupiers of both flats are able to use the driveway to access the parking and garages at the rear, there would be no change in respect of the number of properties served by the driveway. Although a large family house and bungalow could potentially generate more car movements than the two small flats, the difference in the number and type of movements, and thus any noise and disturbance caused by this, would be negligible. I acknowledge that the new development would extend further into the plot, beyond the existing garages, and that this would result in vehicle movements alongside more of the neighbour's rear garden. However, the level of movement would not be significant, unlike for example the access and car parking brought to my attention by the appellant, which has been permitted elsewhere along Burniston Road to serve a Tesco Express store and Briar Dene Residential Care Home.
16. I note that No.147 does not appear to have any habitable room windows in its side elevation facing the driveway. Whilst there is currently only a low wall between part of the two driveways, improved boundary treatment could be required by a condition and this would improve privacy, and reduce disturbance, between the side elevations of the frontage properties. Providing appropriate fencing between the driveways and front garden areas would also address concerns regarding the access posing a danger to children occupying the neighbouring property. Any boundary treatment between driveways should however reduce in height where it would be located forward of the front elevation of the new frontage dwelling.
17. As the new dwelling to the rear would be a bungalow, it would not overlook any neighbouring dwellings or their gardens. A condition could be imposed removing permitted development rights for upward extensions and roof alterations to prevent such changes from being made to the property in the future without the need for planning permission.
18. There is no substantive explanation before me as to how the development, or which part of it, would appear overbearing, or to explain from which part of No.147 the development would appear overbearing from, or adversely affect the outlook of. The replacement frontage dwelling would be of a similar size and in a similar position to the existing one. No.147 has no habitable room windows in its side elevation and is set further back than the proposed frontage dwelling. Any views from its front windows would be at an oblique angle across the driveways of both properties and would be similar to those currently experienced. As such, I do not consider the living conditions of occupiers of No.147 or of other existing dwellings adjoining the site would be harmed with regard to noise, disturbance and outlook.
19. However, I consider that future occupiers of the proposed bungalow would have a poor-quality outlook due to the proximity of habitable room windows to the

southern boundary, and future occupiers of the proposed frontage dwelling would experience noise and disturbance from passing cars travelling to and from the bungalow, immediately alongside the side wall and windows of that house. The ground floor windows in the south elevation of the frontage house would also provide little light or outlook due to their proximity to the site boundary.

20. Consequently, the proposal would be contrary to Policy DEC4 of the local plan and paragraph 135 of the Framework, which seek to ensure high standards of amenity for future occupiers.

### **Other Matters**

21. Whilst I have had regard to two previous appeal decisions relating to the site, these date back to 2016 and 1984 and were both for different proposals to the one currently before me, whereby the two flats provided by the existing frontage property would have been retained and a new dwelling located to the rear. Moreover, these previous decisions both pre-date the current local plan, recent versions of the Framework and the Council's Residential Design Guide SPD. As such I afford limited weight to the previous appeal decisions. I do however note that the current scheme fails to address concerns raised in previously refused planning applications and dismissed appeals, particularly with regard to the access width, the effect of traffic movements alongside frontage properties and the proximity of habitable room windows to boundaries and shared access drives.

### **Planning Balance**

22. The Council has advised that it is unable to demonstrate a five-year supply of housing land and that as such paragraph 11(d) of the Framework is engaged. This means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
23. The appellant has not put forward any substantive supporting planning information or benefits. The proposal would not increase the number of dwellings on the site, and I have not been provided with any housing needs evidence that would suggest there is a greater need for the proposal than there is for flats in the area. As such the proposal would not necessarily make more effective use of the land, which it is not disputed is in a sustainable location. The development would not provide any affordable housing or reuse an existing building. Whilst the existing building is possibly in need of renovation, I have not been provided with any information relating to the sustainability credentials of the existing or proposed dwellings. The Council has identified that there would be some economic benefits associated with the site clearance and construction phase of the development. However, as this benefit would be very short term, I afford it limited weight.
24. Set against this I have concluded that the proposal would be of poor-quality design and layout and would incorporate no boundary landscaping or space for this, which would harm the character and appearance of the area, and that future occupiers of the development would have a poor standard of amenity. I afford this harm significant weight.

## **Conclusion**

25. For the reasons given above, the appeal is dismissed.

*R Bartlett*

INSPECTOR