
Appeal Decision

Site visit made on 28 February 2025

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/U2750/W/25/3358351

3 Rutland Street, Filey near Scarborough, North Yorkshire YO14 9JA

- 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 Andrew Pearson against North Yorkshire Council.
 - The application Ref is ZF24/00520/FL.
 - The development proposed is to create an additional floor in the existing house to create 7, 1 bedroom flats. Also to remove the existing rear garage to create on site parking and outdoor space for the future residents.
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Decision

1. The appeal is dismissed and planning permission to create an additional floor in the existing house to create 7, 1 bedroom flats. Also to remove the existing rear garage to create on site parking and outdoor space for the future residents is refused.

Procedural Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a Statement of Case which raises relevant considerations over the conservation area location, whilst also stating that the proposal adequately addresses highway safety and living conditions issues that led to the refusal of an earlier scheme¹. Interested parties have also raised concerns in relation to the conservation area, amongst other matters.
3. The revised National Planning Policy Framework (Framework) has been published during the course of the appeal. The main parties have had the opportunity to comment through the usual appeal timetable deadlines and I have considered the revised Framework in my decision.

Main Issue

4. On the basis of the above, the main issue is whether the proposal preserves or enhances the character or appearance of the Filey Conservation Area.

Reasons

5. The appeal property is an attractive dwelling which is in an Arts and Craft style. It contains 2 full storeys, with a third storey set in an expansive roof space and a gable feature. Overall, the building presents a horizontal form to the streetscene.

¹ Council ref: ZF23/00724/FL

Brickwork is the exterior material at the ground floor level, with render found at the first floor level and on the gable on the front elevation. The roof is tiled with prominent chimney features. There is also a pleasing arrangement of windows, ranging from large bays at the ground floor level to small dormers or windows in the roof and gable. The rear of the building is more subsidiary and plainer in its appearance. It contains single storey elements, less detailing and a rear coach house-like building that is used as a garage.

6. As well as being a gratifying building in its own right, the appeal property contributes to the significance of the conservation area as a high quality building that is unusual in these surroundings due to its architectural style. As set out in the Filey Conservation Area Character Appraisal & Management Proposals (2012) (Character Appraisal), the remainder of Rutland Street is mainly terraced brick housing. This presents a strong architectural rhythm until the appeal site. Yet, the appeal property sits comfortably between this terrace and a larger building to the west, despite that it is in a different architectural style. It adds variety to this part of the conservation area due to its quality and interest.
7. The proposed additional floor would markedly alter the appearance of the appeal property in that it would gain a pronounced vertical appearance, as viewed from the streetscene. The arrangement of diminishing windows sizes would also be largely lost because the proposed windows above ground floor level would be of the same proportions at each level, save for the use of rooflights. These alterations to the features and architectural detailing of the property would not therefore represent an improvement, but rather detract from its appearance.
8. When these proposed significant alterations to the appeal property are taken together, its singular architectural form and style in these immediate surroundings would also be much diminished. As such, its contribution to the significance of the conservation area would not be preserved. While there are buildings in this part of the conservation area which have a vertical emphasis, this is not how the property contributes to the significance. In addition, the vertical proportions of the proposal would appear as an adjunct to the scale of the existing building. It would not thus be visually acceptable.
9. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of considerable weight and importance. Hence, that the Council did not refuse the previous scheme on conservation area grounds does not alter my views on this important matter. While there is not a dedicated heritage statement before me, the consideration of the totality of the evidence, including the Character Appraisal, enables me to fully assess the effect on this designated asset. Where my attention has also been drawn to other buildings and development in the conservation area, this has a limited bearing because the particular consideration is the effect on the appeal property and its related contribution to the significance.
10. Policy DEC5 of the Scarborough Borough Local Plan (2017) (Local Plan) sets out that harm to elements which contribute to the significance of a conservation area will be permitted only where this is outweighed by the public benefits of the proposal. The Framework sets out similar national planning policy. In this case, the harm would be less than substantial. Benefits would arise through the contribution to housing supply in line with Local Plan policies and at a time when the Council cannot demonstrate a 5 year supply in accordance with the

Framework, based on the evidence before me. The proposal would also contribute to a mixed community, provide economic benefits and be in a location that is highly accessible to local services.

11. I am though mindful that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Overall, these matters as public benefits do not outweigh the harm.
12. I conclude that the proposal would not preserve or enhance the character or appearance of the Filey Conservation Area. Accordingly, it would not comply with the protection that is afforded to the historic environment through Policy DEC5 and the Framework.

Other Matters

13. The proposal would not accord with the Framework's presumption in favour of sustainable development because the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. These policies relate to designated heritage assets. Nor would the proposal be suitable brownfield land for the proposal, with the harm that I have identified.
14. The proposal would provide suitable living conditions for its future occupiers through an acceptable internal layout and the provision of a small communal area as outdoor space. It would also not be unacceptable as regards highway safety with the levels of on-site car parking that would be provided, the proposed cycle parking and as it would be in a location that would encourage the use of modes of transport other than the car. It would accord with the policies of the Local Plan in these respects. However, these are matters which do not weigh either for or against the proposal, as they would be required for a proposal to be not unacceptable. They do not change my conclusion.
15. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

16. With the protection afforded to heritage assets, the proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed and planning permission refused.

Darren Hendley

INSPECTOR