

## Appeal Decision

Site visit made on 28 June 2016

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 Aug 2016**

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**Appeal Ref: APP/E2734/W/16/3148872**

**Brookroyd Garage, High Street, Hampsthwaite, North Yorkshire HG3 2EZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David West against the decision of Harrogate Borough Council.
  - The application Ref 6.92.119.G.FUL, dated 21 September 2015, was refused by notice dated 25 November 2015.
  - The development proposed is removal of existing garage roof. Construction of 2 no. two storey dwellings over existing car showroom.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on:
  - the character and appearance of the Hampsthwaite Conservation Area (HCA);
  - the living conditions of the occupants of the proposed dwellings; and
  - highway safety, with regard to the use of the vehicular access and whether vehicles would be displaced onto High Street affecting the free flow of traffic.

### Reasons

#### *Character and Appearance*

3. The appeal site forms part of the historic core of Hampsthwaite that lines High Street and is part of the wider HCA. The site itself is a single storey car showroom which is mainly glazed across its front elevation. It provides a neutral contribution to the overall character of the area, although the Council also refer to it as a potential area of enhancement. Either side of the site and elsewhere on High Street buildings are generally two storey in height, albeit there is no uniform scale or design. Buildings are finished in stone and slate which, together with the varied design, provides for a distinctive style with narrow window openings which give buildings a robust character.
  4. The local area contains a mixture of residential and commercial uses, which includes a post office, a public house, a village store and a café. Beyond the site's rear boundary and Cockhill Beck is the Hampsthwaite Memorial Hall and its car park, which enables views of the site and surrounding buildings.
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5. I agree with the content of the Hampsthwaite Conservation Area Character Appraisal (CA) which sets out the character and appearance of the area and its significance as a heritage asset. The HCA contains many historic rooflines and the CA notes that intrusive dormer windows or inappropriate roof windows can harm the character of the historic roofscape and will not be acceptable.
6. The rear elevation of the proposal would be clearly visible from the Memorial Hall car park and Hollins Lane. Although the dormer windows serving the dwellings would be set beneath the ridge line and away from the eaves, they would be a prominent addition in amongst the straightforward and uncomplicated rear roof planes of High Street. Dormers are not a characteristic of the HCA or High Street and whilst I appreciate the appellant's willingness to adjust window designs, the dormer windows in the scheme before me would be intrusive and harmful in respect of the character and appearance of the area.
7. Buildings in High Street are characterised by the presence of chimney stacks set on party walls, such as those found on the adjoining buildings. I note the proposal would define either end of the roof plane through the use of a stone tabling or corbel. This would assist in integrating the dwellings into their surroundings. However, the first floor windows in the front elevation would be grouped together which would give them a wide appearance that would not reflect the generally vertical nature of windows in the High Street. The appellant would be amenable to change their style and include a chimney, however such changes would not be reasonably secured by the use of a planning condition and I must have regard to the scheme before me, which I conclude would not reflect the vernacular of High Street or the HCA.
8. In such cases, paragraph 132 of the National Planning Policy Framework (the Framework) states that "as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification." As I have found the development to be harmful in respect of the character and appearance of the area, it follows that the proposal also harms the significance of the conservation area. Whilst I consider harm would arise in respect of the conservation area, I consider that the harm is less than substantial because the development would have a localised effect on a section of High Street in amongst the much wider HCA. Thus, as per paragraph 134 of the Framework the less than substantial harm must be weighed against the public benefits of the proposal.
9. Although the proposal would provide 2 new dwellings, this does not alter the proposal's incompatibility with the character and appearance of the HCA. This benefit is not sufficient to outweigh the less than substantial harm, to which I attach considerable weight.
10. Although the Council raises issue with the spacing and siting of the roof lights, having regard to nearby examples found in the roof planes of Spring Garth, the post office and 70 High Street, I consider the proposed roof lights would be complementary to the character and the distinctiveness of the HCA. Concern is also expressed at the scale of the proposal in particular its roof span. The proposal would noticeably change the site's appearance, but the CA does identify the site as an area of potential enhancement. As such, the proposal would fulfil this objective and I consider its scale to be compatible with the varied nature of High Street, but especially the adjacent properties.

11. Nonetheless, on this issue, I conclude the development would harm the character and appearance of the HCA. The proposal would be contrary to saved Policies HD3 and HD20 of the Harrogate District Local Plan (LP), Policies EQ2 and SG4 of the Harrogate District Local Development Framework Core Strategy (CS) and the CA. Furthermore, I conclude the proposal does not accord with paragraph 134 of the Framework. These policies amongst other things seek to preserve the character, appearance and local distinctiveness of conservation areas.

#### *Living Conditions*

12. The core planning principles set out in paragraph 17 of the National Planning Policy Framework (the Framework) says that planning should “*always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*” Policy SC4 of the CS is consistent in this regard.
13. The kitchen and bedroom windows of the dwellings would look out onto the workshop roof of the car repairs garage. The relationship partially replicates that of the flat above the office which has a main room facing onto a small balcony with the forecourt and workshop below. In addition the occupants of Spring Garth adjoin the site, albeit further away from the workshop.
14. I note the Council’s Environmental Health Officer (EHO) has raised no objection to the proposal subject to a condition to secure sound proofing. However, the Council expresses a view that such a condition would not be reasonable or precise as per the tests of paragraph 206 of the Framework and the Planning Practice Guidance (PPG). The basis for this is said to be the vagueness of the EHO’s comments and it is unclear how much sound proofing would be needed.
15. The occupants of the proposed dwellings would be in close proximity to the day to day activities at the garage, which at times could be noisy. No evidence has been put to me concerning the garage’s opening hours. Whilst works based on my observations primarily take place inside the workshops, which would lessen any noise disturbance, in my experience this would not negate noise from the garage affecting the potential occupants, especially if windows serving rear facing rooms are open. I acknowledge the garage has and would continue to operate in close proximity to residential occupants and I note from representations that no noise related issues are raised. However, the proximity of the site to the garage leads me to consider that residential amenity would be adversely affected.
16. Nonetheless, as per paragraph 203 of the Framework, planning conditions can be used to make otherwise unacceptable development acceptable. The PPG confirms that conditions can be imposed to secure submission and approval of details not fully described in the application<sup>1</sup>. A condition seeking details of sound proofing measures for the rear facing rooms including their windows would follow this guidance. I consider such a condition would be reasonable as it would specifically secure the living conditions of occupants of the dwellings. In terms of precision, I consider the Council’s version could be more specific in its reference to particular rooms and in terms of ensuring the approved measures would be retained in perpetuity. Nonetheless, with greater precision a suitably worded condition would overcome that harm that I have identified.

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<sup>1</sup> PPG, Reference ID: 21a-006-20140306

17. For these reasons, I conclude on this matter that the development would ensure the adequacy of the living conditions of the occupants of the proposed dwellings. The proposal would therefore comply with paragraph 17 of the Framework and Policy SG4 of the CS; which together seek to secure living conditions for future occupants of dwellings.

#### *Highway Safety*

18. Access to the site is along a narrow passage, which allows vehicles and pedestrians to access the forecourt from High Street. Spring Garth has a right of access along here and through the yard. The proposal would share the use of this access and provide 2 parking spaces specifically for the dwellings in the forecourt. They would be marked out, so they would be distinct from the workshop's yard, which would be used by vehicles to access and egress from the workshop on a daily basis.
19. The Council and the occupiers of Spring Garth contend that these spaces would be unlikely to remain available at all times and it would be difficult to prevent them being obstructed by vehicles using the workshop. It is also put that vehicles from the workshop would be displaced onto High Street and the increased use of the narrow access would be detrimental to highway safety.
20. In terms of the proposed parking spaces being obstructed by vehicles using the workshop, I noted the workshop has indoor bays available for work on vehicles. There may be occasions when vehicles associated with the respective uses seek to use the forecourt and the access at the same time. This may cause occasional inconvenience, however vehicles would be able to manoeuvre to allow access to the respective uses whilst being off the highway. A condition would also provide adequate control to ensure the proposed spaces are kept available and unobstructed at all times.
21. High Street is relied upon for car parking, both on-street and in bays opposite the site's access. Streets are well used by vehicles and there will be peak periods particularly around school drop off and pick up times. A number of the bays were occupied at the time of my visit. However parked vehicles do not, based on my observations, affect the free flow of traffic through the village, which continues to, despite the reduced carriageway width, pass freely and without adversely affecting highway safety. Also, the use of spaces is not restricted and whilst their occupation may increase during evening hours, I consider there would be spaces generally available throughout the day near to the appeal site that would serve to address any additional parking needs arising from the development.
22. On-street parking either side of the access does to some degree hinder visibility for drivers leaving the site. However the deep pavement in front of the appeal site allows drivers to emerge and assess traffic approaching particularly from the south west. I accept it is more restricted to the north east. Nonetheless the increased use of the access would be limited to 2 vehicles, which would not create a significant number of extra movements.
23. For these reasons, I conclude on this issue that the development would not compromise highway safety. Accordingly the proposal complies with Policy SG4 of the Core Strategy, which seeks to ensure highway safety is not affected by development.

### *Other Matters*

24. I note the consultation responses and positive officer recommendation to the Planning Committee. Members however are not obliged to follow, as they didn't on this occasion, their officer's recommendation. Nevertheless, I have had regard to the evidence before me and considered the appeal on its own merits.
25. Whilst comments have been made that the proposal would replace the garage business, this is not the case. I have determined the scheme on the basis of what has been applied for and considered by the Council.
26. The appellant refers to a commuted sum and an agreement being received from the Council following the Planning Committee meeting. However, there is no evidence before me in this regard. Accordingly I cannot therefore give it any weight.

### **Conclusion**

27. Notwithstanding my findings in relation to highway safety and living conditions, the proposal would cause unacceptable harm to the character and appearance and significance of the conservation area which is not outweighed by any public benefit. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR