



Appeal Decision

Site visit made on 9 May 2024

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/N1350/W/24/3341570

93 Pensbury Street, Darlington, DL1 5LJ

- 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 Ryan Beaumont, Beaumont and Partner Ltd, against the decision of Darlington Borough Council.
 - The application Ref 23/00100/FUL, dated 26 January 2023, was refused by notice dated 21 February 2024.
 - The development proposed is a rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was originally sought for a replacement single storey rear extension to facilitate the property becoming a six bedroom House in Multiple Occupation (HMO). The plans were revised during the Council's consideration of the application to reflect the extension as built, and to include a rear dormer extension which had also been constructed. However, it is evident from the photographs submitted by the appellant to support the appeal, and from my own observations on site, that the development that has been carried out in relation to the dormer is not the same as that which was applied for.
3. The dormer shown on submitted drawings¹ is set down from the ridge of the roof to generally align with the bottom of the chimney stacks. However, it has been constructed to a greater height such that it sits on, or close to, the ridge of the roof. There is no explanation from the appellant or the Council on this matter. Whilst I appreciate that the application was submitted to regularise the existing situation such that the development can be made lawful, in the absence of any justification, and given the importance of these details, I confirm that I have considered the development as shown on the plans rather than what has actually been built. I am also conscious that the rear boundary wall and gate that form part of the scheme have not yet been constructed. As such, I will refer to the scheme overall as a proposal.
4. Whilst not part of the reason for refusal, the appeal property is immediately adjacent to the Grade II* listed building Bank Top Railway Station. The impact on the setting of that heritage asset is considered in the officer's report. In the interests of fairness the appellant has been given the opportunity to comment

¹ Drawing numbers PL115 Revision F and PL200 Revision A

on this matter as part of the appeal. This background has led to my identification of the main issue below.

5. Since the proposal relates to the setting of a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the host property and the surrounding area, including whether it would preserve the setting of the nearby Grade II* listed building Bank Top Railway Station (Main Building) (Ref: 1310079).

Reasons

The setting of the listed building

7. The appeal property is a two storey mid terrace dwelling fronting Pensbury Street. Blue Rose Lane is a brick set alleyway running to the rear of the terrace and separates it from the railway station building to the east.
8. The station dates to 1887 and is constructed in red brick with stone dressings. It has a tall slender clock tower with four stages and wide arched openings to either side in two flanking bay sections which makes up the entrance portico. It is a grand and imposing building with some Italianate detailing. Its decorative design and impressive scale is seen in contrast to the surrounding tight knit modest terraced houses and narrow streets. It is a distinctive and dominating feature of the town sitting in an elevated and commanding position at the top of Victoria Road.
9. In so far as relating to this appeal, the significance of the station is derived from its fine architectural design and form, its historic interest as an important long standing purpose built station, along with its role and status in the town and relationship with the rest of the urban area and traditional townscape.
10. The wider setting of the station has changed over time and continues to do so as a result of the approved station re-development and associated programme of highway and public realm improvements. Nevertheless, its immediate setting around its main entrance is made up of the traditional terraces and backstreets and for the most part remains. Blue Rose Lane retains its traditional historic appearance typical of the terraced townscape. Notably it maintains its well enclosed walled rear yards, as well as its locally distinctive blue grey brick construction, both of which contribute to its historic character and understated traditional charm. This is so despite the variety of rear extensions and boundary treatments there, the condition of the buildings and hardstanding, and the storage of bins.
11. The setting of the listed building, and the contribution it makes to the significance of that asset, in so far as relating to this appeal, is derived mainly from the rich historic character of the townscape and its traditional buildings as well as their relationship to each other including the longstanding back alleyways and enclosed rear yards. These collectively provide evidence of the role and status of Darlington and its historic development and contribute positively to the understanding and the special interest and significance of the station along with the ability to appreciate it.

12. The National Planning Policy Framework (the Framework) defines setting as the surroundings in which a heritage asset is experienced. The appeal property backs on to Blue Rose Lane and has a close and direct visual relationship with the station's long flank elevation as well as being near to its distinctive entrance feature and tower. Despite the built up nature of the area there is some inter-visibility to varying extents between the appeal property and the station. Additionally, some contextual views of the station include the rear of the appeal property where it sits at the western edge of the brick set alleyway.
13. As such, the appeal building has a close and direct visual relationship with the station and therefore contributes to the setting of that listed building. I have had special regard to this matter in considering the appeal.

The effect of the proposal

14. The rear dormer would be some 4 metres wide with a rearward projection of around 3.8 metres and height of 2.3 metres with a flat roof. It would incorporate timber cladding coloured to match the roof tiles and white windows and would be set down from the ridge of the roof. The appellant advises that it would be built to high standards and insulated.
15. Nevertheless, the dormer would be large and would cover much of the rear roof plane. The appellant indicates that it would be set back from the building's eaves by around 0.14 metres (as stated in the Design and Access Statement) or 0.16 m (as stated in the appellant's appeal submissions). The Council does not dispute these matters. However, the set back would not be great. It is not evident on the submitted drawings showing the rear elevation, where no part of the roof or tiles are shown to remain visible between the bottom edge of the front face of the dormer and the outermost edge of the eaves (as would normally be expected in order to achieve a set back).
16. Taking these factors into account, I find that the dormer would be an unduly large and bulky addition that would extend across almost the full width of the roof and close up to the eaves. As such it would dominate the appeal property's rear roof plane and appear as an incongruous and overbearing form of development on the relatively modest terraced host property.
17. Whilst being mindful that I am considering the proposed scheme and not what has been built, I saw at my site visit that from street level the dormer is without any discernible gap or visual separation from the bottom edge of the roof. Since this element of the dormer appears to accord with the details on the drawings, this adds to my concerns that the proposed dormer would have an unsatisfactory visual impact.
18. Paragraph 124 of the Framework advises that planning policies should support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene and is well designed (amongst other things).
19. In terms of the street scene, whilst the proposed dormer would not be visible in Pensbury Street, it would be clearly seen in Blue Rose Lane. Although there is a limited number of other dormers there, they are not a prevalent feature particularly at the southern end of Blue Rose Lane in the vicinity of the appeal

- property. As such, even given its timber clad design, I find that the proposed dormer would stand out as a substantial and obtrusive unsympathetic addition to the relatively uninterrupted and clear rear roof scape of the terrace. Accordingly it would detract from the street scene in Blue Rose Lane.
20. The rear extension would be around 7.6 metres deep and 2.5 metres wide with a shallow mono-pitched roof. It would be built right up to the property's rear boundary to form part of the boundary treatment there, fronting Blue Rose Lane with a rendered gable end rising to a height of some 2.8 metres. A new brick wall around 2.3 metres in height would be provided alongside the extension and would include double timber doors.
 21. These elements of the proposal would use materials to assimilate with the existing property and would not affect its front or principal elevation or be seen in Pensbury Street. They would remain within the existing boundary of the appeal property which would not be extended eastwards, and the wall would replace a previous boundary wall of the same height.
 22. There is a variety of rear extensions in Blue Rose Lane including both two storey and single storey additions (some with mono-pitched roofs) and different types of boundary treatments which vary in height, condition, age and materials. That said, the majority of the rear boundaries are demarked by rear walls and gates, with most of the extensions sitting behind these and being contained within the delineated historic rear yards. There is some uniformity to this piecemeal variety of brick rear walls which, along with the remaining historic brick sets there, contribute to the pleasant traditional character of Blue Rose Lane.
 23. In contrast, the proposed extension would be tall and imposing and its considerable rendered gable end and prominent wide fascia board would be located hard up to the boundary and at the back edge of Blue Rose Lane. It would protrude above the generally established wall height there and be seen as a tall and solid structure located right on the edge of the yard. Whilst the proposed adjacent brick wall and doors would generally reflect the previous wall and accord with those nearby, it would make up only part of the boundary resulting in a somewhat disjointed appearance.
 24. This being so, I find that the traditional containment and walled nature of the rear yard would be eroded and the proposal would result in a discordant and jarring boundary treatment that would appear at odds with the other properties nearby and along the row. Thus the proposal would stand out in the street scene of Blue Rose Lane as an obvious and obtrusive feature.
 25. Bringing matters together, I find that overall, for the reasons given, the proposal as a whole would be at odds with the character and appearance of the host property and the surrounding area. That there are no objections from third parties does not alter my conclusion. Although I appreciate that it is not part of the Council's reason for refusal on the decision notice, with my statutory duty in mind, I have considered whether the proposal would preserve the setting of the nearby listed railway station.
 26. Whilst I accept that the appeal property is to some extent screened from view by surrounding development when looking at the station from Victoria Road, there is nevertheless visibility between the rear of the appeal property and the station as described above, and it forms part of the heritage asset's setting.

The Council also refers to the opening up of the area as part of the station re-development when the appeal property will become more prominent. Whilst I have seen no further details relating to this, I understand that a nearby building in Victoria Road is to be demolished. Although not a determinative factor, I am mindful that this would further increase the visibility of the proposal.

27. In causing harm to the character and appearance of the host property and the surrounding area, and unacceptably undermining the distinctive historic character of the townscape and street scene in Blue Rose Lane, the proposal would detract from the appreciation of the adjacent important historic structure. Thus it would diminish the contribution of the setting of the station to its significance. For these reasons, I find that the proposal would fail to preserve the setting of the nearby listed building.

The heritage balance

28. I therefore conclude on the main issue that the proposal would harm the character and appearance of the host property and the surrounding area and would fail to preserve the setting of the nearby listed building. I give this harm considerable importance and weight in the balance of this appeal.
29. The Framework advises at paragraph 205 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. I am aware that the Council does not consider the scheme would have a significant harmful effect on the listed building. Even so, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
30. Paragraph 208 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
31. The appellant considers that the scheme provides increased and improved living space which enhances the property and makes it more liveable and sustainable. The rear extension increases the size of the kitchen whilst retaining an area of outdoor space. The dormer provides increased headroom to make the attic space usable as a bedroom with adequate light. The new rear boundary wall would provide security and privacy. Overall it is argued that the scheme protects the living conditions of nearby occupiers, provides better living standards for occupiers, raises property values, and ensures the longevity of the property as an HMO.
32. That said, the appeal property has an established residential use and I have seen nothing to demonstrate that this would cease in the absence of the appeal scheme. I am also mindful that the improvements to the property as stated are in some cases private rather than public benefits, and that they could in any event be realised via less substantial and therefore less harmful extensions to the property. This tempers the weight to be afforded to any public benefits arising in these regards.

33. Bringing matters together, I find that overall, the public benefits of the proposal do not outweigh the harm to the significance of the designated heritage asset I have identified. Thus, the proposal is contrary to Policy DC2 of the Darlington Local Plan which requires good design to create attractive and desirable places where people want to live, work and invest. Proposals should reflect the local environment and create an individual sense of place with distinctive character and respond positively to the local context. For these reasons the scheme fails to satisfy the requirements of the Act and paragraph 203 of the Framework and would be in conflict with the development plan.

Other matters

34. The appellant refers to a fallback position whereby a rear dormer could be constructed without the need for planning permission under permitted development rights. Class B of Schedule B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) relates to the enlargement of a house consisting of an addition or alteration to its roof. A number of limits and conditions apply including B.2 (b) (i) (bb) which requires the enlargement shall be constructed so that the edge of the enlargement closest to the eaves of the original roof shall, so far as it practicable, be not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves.
35. As set out above, the proposed dormer would be set back around 0.14 or 0.16 metres from the eaves. I appreciate that this would not fall too far short of the 0.2 metres required by the GDPO. The Council does not dispute this matter. Nevertheless, it remains that a greater set back would be required under permitted development rights. Whilst the distance would not be large, this increased set back would mean that the resultant dormer that could be built without the need for planning permission, would be better separated from the eaves and appear less dominant than the appeal scheme.
36. As such, I am not persuaded that a dormer constructed under permitted development rights would have worse effects than the appeal proposal. I am also mindful that the scheme overall includes other elements including the rear extension which I have found to be harmful. As such, this fallback position does not justify the appeal scheme overall. Whilst I appreciate that to alter the already constructed dormer would be costly, that is not a reason to allow development that I have found to be harmful based on its planning merits.
37. I have also had regard to the appellant's argument that the government's proposed changes to permitted development rights would remove the requirement for a set back completely, such that the proposed dormer would be permitted development. However, any such potential changes to the GDPO are not yet in force, and it remains that as things stand, the dormer before me requires planning permission and falls to be considered on its planning merits.

Conclusion

38. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR