
Appeal Decision

Site visit made on 26 June 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 13 July 2017

Appeal Ref: APP/C2741/W/17/3170543

Dunnington Pharmacy, 5 York Street, Dunnington YO19 5PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 E & C Goran Ltd against the decision of City of York Council.
 - The application Ref: 16/01658/FUL, dated 7 July 2016, was refused by notice dated 6 September 2016.
 - The application sought planning permission for external alterations to public house in connection with proposed use as a shop and subdivision of first floor living accommodation to 2 no. flats (use class C3) without complying with a condition attached to planning permission Ref: 14/02990/FUL, dated 23 March 2015.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following plans: Drawing Refs: 860/5A; 860/4; 860/3.*
 - The reason given for the condition is: *For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal relates to two double glazed uPVC bay windows which have been installed to the front elevation of the subject property at ground floor level and differ to the painted timber bow windows with vertical sliding sashes authorised under the above permission.
3. Accordingly, the main issue in this case is whether the disputed condition is necessary and reasonable in order to preserve or enhance the character or appearance of the Dunnington Conservation Area.

Reasons

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This obligation is reflected in policies GP1, HE2, HE3 and HE6 of the *City of York Development Control Local Plan (2005)*¹ which, amongst other things, require development

¹ The Local Plan is in draft form and has been approved by the Council for development control purposes. Accordingly, I attach only moderate weight to its policies as material considerations in my determination of the appeal

proposals to employ high quality design, respect or enhance the local environment and not have an adverse effect on the character and appearance of conservation areas. These policies broadly accord with the provisions of the *National Planning Policy Framework* ('the Framework'). Reference is also made to the *Dunnington Village Design Statement* (2006) which states that windows in older properties should accord with the period style of those properties, replacements should accurately reflect the styles of the originals and the use of traditional materials is preferred.

5. The host building lies in the heart of the Dunnington Conservation Area where "*the traditional village character within the historic centre itself remains strong and distinctive*"². Here, the Conservation Area is largely characterised by tight-knit linear development to street frontages with the majority of buildings being of two-storey form in a traditional style. This character has evolved over the years with alterations and additions to buildings to result in an attractive and diverse built environment.
6. Within this context the appeal site is prominently located close to the junction of York Street, Church Street, Common Road and Petercroft Lane. Whilst the building is not architecturally distinguished it retains a simple elegance and makes a positive contribution to the character and appearance of the Conservation Area. The appellant advises that prior to its renovation the property featured different window types and materials, including uPVC. However, details of these windows have not been provided.
7. The subject windows comprise canted bays with utilitarian cornices and friezes which are at odds with the traditional detailing of the central door-case to the building. Moreover, the windows are constructed of a non-traditional material with large profile frames, fixed lights and uncharacteristically thick dummy glazing bars between the inner and outer panes. As a result, the replacement windows harm the character and appearance of the subject building and fail to preserve or enhance the character and appearance of the Conservation Area.
8. My attention has been drawn to a number of properties in the vicinity of the appeal site where replacement windows have been installed. I inspected these examples during my visit and noted that a variety of materials, designs and styles have been employed. Not all are directly comparable with the appeal proposal. Furthermore, the degree of impact of the alterations upon the host building and the character and appearance of the Conservation Area varies. In addition, I do not know the considerations that were taken into account by the Council in deciding to grant planning permission, if indeed permission was sought or required in these cases. In any case, many detract from the character and appearance of the Conservation Area and do not therefore persuade me that the appeal should succeed.
9. Paragraph 134 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset such as a Conservation Area, this harm should be weighed against the public benefits of the proposal. It may be that the proposal would optimise the viable, long term use of a building which was in need of restoration. It is also likely that the property is now more energy efficient and no doubt provides a suitable treatment room for a GP's branch surgery. However, whilst the harm

² Appendix B of the Local Plan: 'City of York Conservation Areas'.

to the significance of the Conservation Area is less than substantial, the public benefits are not sufficient to outweigh that harm.

Other Matters

10. Any disruption to the existing pharmacy business in the building arising from the installation of windows to replace those installed would be a short term inconvenience. Whilst the disposal of the existing windows to landfill may be a loss of a resource it does not outweigh the harm I have identified above.

Conclusion

11. I conclude that the development has a significantly harmful impact on the character and appearance of the Conservation Area. There are no material considerations of sufficient weight to overcome this harm and the resultant conflict with the Local Plan and other policy. Accordingly, and notwithstanding the absence of local objections and the support of a City Councillor, the appeal is dismissed.

Michael Moffoot

Inspector