



Appeal Decision

Site visit made on 9 July 2019

by Karen Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/C2741/W/19/3223397
28 Sandringham Street, York YO10 4BA

- 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 Killian Gallagher (Gallagher Planning Ltd) against the decision of City of York Council.
 - The application Ref 18/01811/FUL, dated 6 August 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the conversion of a warehouse to residential use, and associated alterations, extensions and infrastructure.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 8 August 2019.

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The Council has cited policies, DP3 D1 and D4 of the City of York Publication Draft Local Plan 2018 in the refusal reasons. As this plan has yet to be adopted, I give these policies only limited weight in this appeal decision. The National Planning Policy Framework (the Framework) is an important material consideration and therefore significant weight is given to this.
3. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. It states at part (d), that where there are no relevant development plan policies, permission should be granted unless (i) the application of policies within the Framework that protect areas or assets of particular importance (including designated heritage assets) provides a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Which of these applies follows on from my conclusion over the first main issue.
4. The Council has agreed a suitable location for existing bin storage and the third reason for refusal falls away. Therefore, the remaining main issues are:
 - the effect of the development upon the character and appearance of the area and whether it would preserve or enhance that of the New Walk/Terry Avenue Conservation Area (CA);

- The effect of the proposal on living conditions of occupants of Sandringham Street and New Walk Terrace, with particular regard to privacy, outlook and noise/disturbance.

Reasons

Character and appearance

5. The appeal site lies in an area with a mix of both commercial and residential uses. The rear of the appeal site adjoins the CA. It is next to a café and the site itself consists of various outbuildings and a warehouse which was once in commercial use. Parts of the existing boundary walls would remain to facilitate some of the proposal, but most of the existing buildings would be demolished. The development would result in a substantial four-bedroom dwelling, infilling the existing gap between the café at No. 28 and the end terrace house at No. 27.
6. Although the appeal site currently features tall gates and a parapet wall fronting Sandringham Street, the rest of the street is a terrace of 19th century houses that are set back behind small front gardens with low roadside walls. Their appearances are identical as two storey dwellings with bay windows. The proposed dwelling would be positioned directly abutting the highway, which would appear imposing and a prominent addition to the residential street. The stepped frontage would be harmfully at odds with the uniform pattern of the terraces running along Sandringham Street. The set back to the frontage at first floor level, with the inclusion of a balcony, would appear as three-storeys. Combined with the large amounts of glazing shown, this would be unsympathetic with the prevailing more traditional design of the existing terraced housing. The proposal would be over-large in this setting and have a detrimental impact on the character and appearance of the street scene.
7. The rear of the site is clearly visible from both the public house car park and New Walk Terrace, which falls within the CA. The existing roof heights in the appeal site provide some openness and visual relief between the residential and commercial areas. The proposal would fill more of this gap with a comparatively large and overly dominant dwelling.
8. Although the ridge height would match that of No. 27 the eaves would slope down and adjoin the projecting first floor balcony area, which would appear anomalous in the context of the adjacent houses. The scheme would introduce a projecting ground floor extending beyond the established rear building lines. The design of the rear elevation would bear no relationship to the existing character of the properties along Sandringham Street, Fishergate and New Walk Terrace. The balcony, roof forms and parapet wall would result in an incongruous infill, harmful to the historic setting of the adjoining CA. The proposed dwelling would therefore be imposing and have an adverse visual impact when viewed from the CA along the rear boundary and from New Walk Terrace, thus causing significant harm to the immediate and wider setting of the CA.

9. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons given, I conclude that the proposed development would harm the character and appearance of the area and fail to preserve that of the CA. Whilst the harm would be less than substantial I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.
10. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There would be little public benefit to outweigh the harm found to the significance of the CA.
11. The proposal would be contrary to the design objectives in the Framework, particularly Section 12, paragraph 127, which seeks to ensure new development is visually attractive, maintains a strong sense of place and adds to the overall quality of the area. It would also be contrary to Section 16 of the Framework as it would not conserve the heritage asset in a manner appropriate to its significance, or positively contribute to local character or distinctiveness.

Living conditions

12. The proposed dwelling would incorporate balconies to both the front and rear at high levels. There would be no direct overlooking from the balcony on the front elevation as this would directly face a garage. However, the parapet wall and balcony, due to their height and proximity to the boundary with No. 27, would have an enclosing and dominating effect when viewed from the ground floor front window.
13. Furthermore, the rear balcony would result in an excessively high and large enclosed outdoor amenity space and, although privacy screening is proposed, appear as a dominant addition and be overbearing when viewed from the garden area at the rear of No. 27. It would also be likely that given the height of and position of both balconies there would be additional noise and disturbances as the balconies would be accessible during both the day and night, which would be harmful to the living conditions of nearby residents of Sandringham Street and New Walk Terrace.
14. In terms of the rear dormer and rear windows, these would overlook the rear gardens of New Walk Terrace. However, these are proposed to have obscured glass, which might be retained through a planning condition. Although the dormer windows would not result in any material loss of privacy, this does not alter the other harm found. I conclude that the proposed development would harm the living conditions of adjacent occupiers and would thus be contrary to paragraph 127 of the Framework. This seeks that planning decisions create places with a high standard of amenity for existing and future users.

Planning Balance and Conclusion

15. The Council cannot currently demonstrate a 5-year supply of housing land. The proposal would provide a small benefit in helping to address this within a sustainable location. On the basis of Framework paragraph 11 d) i., the policies that protect the CA in this provide a clear reason for refusing the development. The small benefits of the proposal would not outweigh this clear reason and, along with the further harm identified, means that I must conclude that the appeal be dismissed.

Karen Taylor

INSPECTOR