



Appeal Decision

Site visit made on 6 January 2020 by L Wilson BA (Hons) MA

Decision by V Lucas LLB (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2020

Appeal Ref: APP/C2741/D/19/3238614

14 Heslington Lane, York YO10 4LR

- 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 Michael Hammill, on behalf of Yorbuild Ltd, against the decision of City of York Council.
 - The application Ref 19/01416/FUL, dated 5 July 2019, was refused by notice dated 11 September 2019.
 - The development proposed is installation of solar panels to roof area.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of solar panels to roof area at 14 Heslington Lane, York YO10 4LR in accordance with the terms of the application, Ref 19/01416/FUL, dated 5 July 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001 revision P01,05 A, 06, 105 A, 12.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Main Issue

4. The effect of the proposal upon the character and appearance of the host building and whether the development preserves or enhances the character or appearance of the Fulford Conservation Area (CA).

Reasons for the Recommendation

5. Paragraph 148 of the Framework states that the planning system should support the transition to a low carbon future in a changing climate. Both main parties recognise that the Framework acknowledges small-scale projects

provide a valuable contribution to cutting greenhouse gas emissions. Nonetheless, the Framework requires adverse impacts to be addressed satisfactorily.

6. The site is located close to a traffic controlled T-junction with Main Street which is a busy road running through the CA. No.14 is a two-storey L-shaped terraced dwelling which has recently been converted from a garage. The property fronts onto Heslington Lane but the main bulk of the property is located to the rear.
7. The property contrasts with the surrounding area, standing out as a unique building because of the use of modern materials and its black appearance. The appellant highlights that original features such as chimney stacks, cast iron gutters and timber sash windows have been removed. The previous slate roof has also been removed and a number of roof lights have been added. It is understood that these roof lights are subject to a pending planning application.
8. The solar panels would not remove any historic fabric of the host building. I observed on my site visit that the existing roof has a smooth and regular appearance. The roof does not notably add to the character of the property although it does reflect the modern materials used in the recent conversion. Thus, although the proposed roof would clearly read as solar panels, it would not significantly alter the overall appearance nor unduly detract from the character and appearance of this modernised building. The existing form, scale and architectural style of the host building would be broadly preserved.
9. The scale and massing of No.14 is distinguishable in comparison to properties within the street scene. In contrast to the adjoining uniform terraces, the appeal property is narrower and has a front facing gable. In comparison to No.16, No.14 is stepped back, taller and narrower. Whilst most of the buildings within the street scene are traditional in character, their form and siting alters which adds to the character of the area. On the opposite side of the highway is Fulfordgate Club which detracts from the character of the area due to unsympathetic flat roof extensions.
10. The Fulford Village Conservation Area Appraisal (2008) outlines the general character of the area. The appeal site is situated within the Heslington Lane area. The Appraisal states this section of the Lane consists of fairly standard terraces of Victorian and earlier terraced houses set fairly close to the highway. The Appraisal highlights No.14 as a building of positive value to the area. I note that the building has been converted and modernised since the Appraisal was written. The Council state that the positive contribution derives from the age of the property, its design, and mellowed appearance of the natural slate roof covering and brick walling which are the predominant materials in the CA. From the details before me, I consider that the importance of the CA is mainly derived from the historic layout and mix of houses ranging across different style and periods, but with a shared sense of scale and unity of building materials.
11. Framework paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 194 states that any harm to, or

loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

12. As highlighted above, many of the original features of the appeal property have been replaced by more modern alternatives and the slate roof has been removed. I disagree with the Council that No.14 has a mellowed appearance as a result of its recent conversion. The current roof has a neutral impact upon the CA as it contrasts with the neighbouring slate and pantile roofs. The materials used within the conversion do not reflect the traditional building materials evident in the CA. I observed on my site visit that the existing roof has little variation between each tile and does not appear irregular nor have a natural appearance. Consequently, while the panels would be larger than the existing tiles, their regular, uniform, flat appearance would not be wholly dissimilar to the existing roof covering.
13. Furthermore, although the solar panels would cover all of the roof slopes, the panels would not be visually prominent as they would be primarily screened from public vantage points. Due to the high density of properties within the street scene, and their massing, the extent of the roof covered by the panels would not be apparent. The existing buildings would prevent the solar panels to be visible from longer distance public views. Similarly, the 90mm projection, above the existing roof slope, would not be widely conspicuous given the differing roof heights within the vicinity of the appeal site.
14. Within the street scene there are no solar panels, however there are examples of roofs which have been altered through rooflights and dormer windows. On my site visit I also observed other properties, located within the CA, on School Lane and Glen Close which have solar panels fitted on arguably more prominent roof slopes. I give these examples limited weight as I do not have the full details of these cases and so cannot determine whether the circumstances are comparable to the proposal before me. Nonetheless, whilst not a common feature, solar panels are evident within the CA.
15. For the reasons set out above, the scheme would not have an undue impact upon the traditional character and appearance of the CA. Thus, the proposal would have a neutral effect on the CA and there would be no harm to the designated heritage asset.
16. Consequently, the proposal would not have a significant adverse visual effect upon the character and appearance of the host building and would preserve the character and appearance of the CA. Accordingly, the proposed development would not conflict with the Framework which seeks, amongst other matters, to protect the historic environment, promote good design and to ensure new development does not harm the character and appearance of areas.
17. The reasons for refusal relate to Policy D11 of the City of York Local Plan - Publication Draft (2018) and Policies GP1, HE2 and HE3 of the City of York Draft Development Control Local Plan (2005), which has been approved by the Council for development control purposes. Collectively these policies seek to promote high quality design which maintains or enhances the character and appearance of the area. As neither of these plans have been formally adopted, I have given them limited weight, in line with paragraph 48 of the Framework. Nonetheless, I am satisfied that the scheme would comply with these policies.

Conditions

18. I have considered the conditions recommended by the Council, having regard to guidance found in the Planning Practice Guidance. In addition to the statutory commencement condition a condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans.
19. The Council has suggested a condition which seeks the materials to be used in the construction of the external surfaces of the development to match those used in the existing building. However, this condition is considered unreasonable as it would not be possible to match the materials of the solar panels with the existing building. The Council has also suggested a condition which seeks to remove the solar panels and supporting structure in the event that they are no longer required for the generation of renewable energy. The Council consider this condition to be necessary in the interest of visual amenity. I do not consider that this condition is necessary as I have found that the scheme would not be harmful.

Conclusion and Recommendation

20. For the reasons given above I recommend that the appeal should be allowed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the conditions attached.

V Lucas

INSPECTOR



Costs Decision

Site visit made on 6 January 2020 by L Wilson BA (Hons) MA

Decision by V Lucas LLB (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/C2741/D/19/3238614 14 Heslington Lane, York YO10 4LR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Michael Hammill, on behalf of Yorbuild Ltd, for a full award of costs against City of York Council.
 - The appeal was against the refusal of planning permission for the installation of solar panels to roof area.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The application for an award of costs, the Council's response and the applicant's further response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant's case is that the Council did not carry out the planning balance correctly. Furthermore, the applicant considers that the Council did not work proactively with them. The proposal ultimately required an exercise of planning judgement and my Decision above explains why I have found favour with the applicant's case. The Officer's Report and refusal reason were clear. I am satisfied that the Council adequately considered all of the pertinent factors and sufficient evidence was submitted to support the Council's stance in line with national and local planning policy.
4. I acknowledge that it would have been in the spirit of paragraph 38 of the Framework for the Council to engage with the applicant before determining the application. However, I am not convinced that any discussions would have altered the Council's stance. Thus, it appears little would have been gained from negotiating with the applicant.

5. Taking all of the above into account, the applicant has not shown that the Council's refusal of planning permission was unreasonable resulting in unnecessary and wasted expense as set out in the PPG. In the absence of any unreasonably behaviour there are no grounds for an award of costs and a full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

6. I have considered all the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I concur that this application should be refused.

V Lucas

INSPECTOR