



Appeal Decision

Site visit made on 4 February 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2020

Appeal Ref: APP/C2741/W/19/3240261

60 Gillygate, York YO31 7EQ

- 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 Zipcrown Ltd against the decision of City of York Council.
 - The application Ref 19/01159/FUL, dated 4 June 2019, was refused by notice dated 5 August 2019.
 - The development proposed is extensions to the rear to form two storey residential unit with balcony, installation of rear external staircase, alterations to existing first and second floor residential units, formation of roof terrace for existing apartment and alterations to existing ground floor retail unit.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council advise they no longer wish to defend the second reason for refusal in respect of the potential harm to a protected species as a result of the submission of a revised bat assessment by the appellant which sufficiently addresses its previous concerns in this regard and I have dealt with the appeal on this basis.
3. As part of their appeal the appellant has submitted revised drawings that no longer include the proposed roof terrace which was shown on the plans submitted as part of the original application. Consequently, I have considered the appeal on this basis and as the Council has had an opportunity to comment on these revised plans, I do not consider that any parties will have been prejudiced by my doing so.
4. The appellant has also indicated that as Policies HE2 and HE3 of the York Development Control Local Plan 2005 (DCLP) do not form part of the statutory development plan they should therefore be afforded no weight. However, the overall aims of Policies HE2 and HE3 are to ensure that new development proposals conserve and enhance designated heritage assets and their character which is consistent with the overall aims of the *National Planning Policy Framework* (the Framework). Consequently, I have afforded them limited weight in this case. Similarly, I have also afforded limited weight to emerging policies D1 and D4 of the York Local Plan Publication Draft February 2018 (PDLP) something which both parties appear to agree upon.

Main Issue

5. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Central Historic Core Conservation Area.

Reasons

6. The appeal property is a three-storey building with red-brick façade comprising a retail unit to the front with an office, kitchenette, storeroom, toilet and workshop to the rear of this on the ground floor and a residential apartment on the two floors above. The surrounding area consists of similar buildings with retail units fronting the busy thoroughfare of Gillygate. The appeal site and the other buildings on Gillygate are also located within Character Area 5 of the Central Core Conservation Area (CA) which is largely characterised by 18th and 19th century buildings with varied roof lines and subservient/utilitarian rear extensions that have been added over time. In addition, the appeal property and others on this side of Gillygate are also near to the historic city walls which are a Scheduled Ancient Monument (SAM) with their plots being generally longer and narrower than those on the other side of Gillygate.
7. The ground floor office, kitchenette, storeroom, toilet and workshop are situated within an extension to the original building as is a portion of the apartment giving the property a stepped appearance when viewed from the side. The proposal would further extend the ground floor of the building to the rear to create an additional bedroom, shower, kitchen and living area with the workshop being relocated closer to the front of the building just behind the existing retail unit. The first floor of the residential apartment would also be extended further to the rear projecting out the same distance as the current ground floor workshop in essence creating a two-storey extension to the property. The proposed ground floor rear extension would also project further than this taking it past the existing rear building line of adjacent properties.
8. The current extensions to the appeal property appear obviously subservient to the original building, complementing its style and form and that of the neighbouring properties (including their existing rear extensions) set within the context of their historical surroundings. Given its scale the proposal would be a significant addition to these current extensions regardless of whether or not the proposed windows or rooflights would be in keeping with or similar to those of neighbouring properties. Consequently, given the current built form of the appeal property, the sensitive nature of its location (as acknowledged by the appellant), the historic nature of the original building and context which necessitated the existing extensions (characterised by their obvious subservience and utility), I consider that the proposal would not appear obviously subservient to the original building. As a result, it would also appear out of context thereby having an adverse visual impact which would harm the character and appearance of the area.
9. I note the points made by the appellant that the design of the proposal means that it would still appear subservient to the original building and maintain the 'stepped' profile to the rear. However, even though the building's stepped profile to the rear would be somewhat maintained, given the very small gap between the ridge line of the original building and the proposed two-storey extension, it would not be similar enough to be easily and obviously read as being subservient to or retaining the existing character of the appeal property as a whole (inclusive of the original building and the current extensions).
10. Furthermore, the proposal would develop much of the remaining plot to the rear of the property including the service yard/car park which in addition to potentially making it more difficult to facilitate deliveries to the retail unit and workshop, would also create a cramped form of development, given the shape and length of the appeal site which would be out of keeping with the existing pattern of development in the area. Whilst I note the appellant's point that approximately 84 square metres of space would be left between the rear of the appeal site and the

city walls this is not the space (within the red-line boundary) that I am referring to in my considerations above.

11. Moreover, this large addition would also be visible by users of the city walls from a number of vantage-points along their route to and from Bootham Bar gateway and the seating/viewing area closest to Moatside Court (regardless of whether or not their height is greater than 5ft 10ins). Whilst I acknowledge that it would not be visible from the closest vantage points all-year-round due to the line of mature trees between the rear of the site and the walls, as I saw on my site visit it would still be visible from vantage points further along the wall to the north-east where no trees are present. Consequently, I consider that the proposal would be visible to all users of the city walls and not just to tall people visiting in winter.
12. I note the appellant's points that the streetscape on Gillygate would not be harmed as the proposal would not be visible from the front meaning that there would be no adverse impact on the character and appearance of the CA. However, the proposal would be visible from the back not just by users of the city walls but also by people traversing Moatside Court meaning that there would be an adverse visual impact, nonetheless. I also do not consider that the streetscape would not be 'changed in any way' as the appellant has asserted.
13. Consequently, and taking into account the characteristics of this part of the CA, I consider that the proposal represents a disproportionately large and discordant addition to the appeal property and street scene that would appear out of keeping with the overall character and appearance of the area. Accordingly, given the design, height, scale, massing and location of the proposal it would fail to preserve or enhance the character or appearance of the CA. As a result, it would have a negative effect on the significance of a designated heritage asset resulting in less than substantial harm to the CA.
14. Having regard to paragraph 196 of the *National Planning Policy Framework* (the Framework), the appellant has cited several public benefits that the proposed development would provide. These include: the creation of an affordable home, the site being within a sustainable location, the provision of construction jobs, increased economic activity from permanent residents living there, and improvement to the amenity of the area to the back of the appeal properties and its neighbours. Whilst I acknowledge that the proposed development would likely provide some public and economic benefits, these would be limited given the proposal's relatively small scale. I also have no evidence before me to show that a new affordable dwelling would be provided. In any event, these limited benefits would not outweigh the harm to the CA, that I have identified above and to which I attach great weight.
15. Consequently, a clear and convincing justification for the identified harm has not been given or demonstrated in accordance with paragraph 194 of the Framework. The proposal would, therefore, fail to preserve or enhance the character or appearance of the CA.
16. I therefore conclude that the proposed development would conflict with Policies HE2 and HE3 of the DCLP (approved April 2005), and emerging draft Policies D1 and D4 of the PDLP (February 2018) which seek to ensure that new development proposals conserve and enhance designated heritage assets and their character, amongst other considerations. It would also conflict with paragraphs 193, 194 and 196 of the Framework which seek to conserve and enhance the historic environment, and paragraph 130 which promotes good design.

Other Matters

Relevance of policies

17. The appellant has stated that emerging draft policies DC4 and D11 are more relevant than emerging draft Policies D1 and D4. However, from the evidence before me there does not appear to be a Policy DC4 and the provisions of Policy D11 in relation to extensions and alterations to existing buildings do not alter my findings above.

Precedent

18. I note the appellant's reference to a case for a similar proposal on sites nearby where planning permission was granted. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken. In addition, the circumstances applicable to the 30A and 62a Gillygate schemes¹ are not exactly the same as those presented in this case, which I have determined on its own merits.

Housing Land Supply

19. The appellant argues that the Council cannot demonstrate a 5-year supply of deliverable housing land and therefore that the presumption in favour of sustainable development (paragraph 11 of the Framework) is engaged. However, the harm to the designated heritage asset that I have identified above provides a clear reason for refusing the proposed development².

Setting of the City Walls SAM

20. Concerns have been raised by third parties in relation to the potential impact of the proposal on the setting of the City Walls SAM. However, as the Council have not raised any concerns and given that I am dismissing the appeal on other substantive grounds, I have not considered this matter further.

Conclusion

21. The proposed development fails to preserve or enhance the character or appearance of the CA in conflict with the aims of the Framework. It would therefore be contrary to the adopted development plan and there are no material considerations indicating a decision otherwise than in accordance with it. For the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

¹ Appellant's Statement of Case.

² See paragraph 11 d) (i) – footnote 6 of the Framework