



Appeal Decision

Site visit made on 8 January 2020

by M Seaton DipTP MRTPI

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

Decision date: 24 April 2020

Appeal Ref: APP/C2741/W/19/3238740

1-14 Lambert Court, 33, 35, 37, 39, 41, 43 Bishophill Senior and 11, 12, 14, 15, 16, 17, 18 and 19 Buckingham Street, York

- 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 A McLeod (on behalf of Accent Housing Ltd) against the decision of City of York Council.
 - The application Ref 19/00681/FUL, dated 2 April 2019, was refused by notice dated 25 July 2019.
 - The development proposed is the replacement of timber windows and doors with UPVC.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of timber windows and doors with UPVC at 1-14 Lambert Court, 33, 35, 37, 39, 41, 43 Bishophill Senior and 11, 12, 14, 15, 16, 17, 18 and 19 Buckingham Street, York, in accordance with the terms of the application, Ref. 19/00681/FUL, dated 2 April 2019, and subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, 4 Lambert Court – Proposed windows and doors, 5 Lambert Court - Lounge existing, As existing first floor lounge, Block 1 – Proposed windows doors, Block 2 – Proposed windows doors, Block 3 – Proposed windows doors, Block 4 – Proposed windows doors, Block 5 – Proposed windows doors, Buckingham Street – Existing and Proposed, Ground floor B117 Door combination, Proposed windows and door listing, Typical window and door vertical section, Ben Nevis Door Details, and Etna Door Details.

Main Issue

2. The main issue is whether the development preserves or enhances the character or appearance of the York Central Historic Core Conservation Area.

Reasons

3. The appeal proposals comprise the replacement of existing timber windows and doors with UPVC on 27 flats set within two 2-storey brick blocks which are identified as having been constructed during the 1990's. Despite being close to the City Centre, the area is predominantly residential in nature with an overwhelming prevalence of 2 & 3 storey terraced properties with some

variation between more traditional and modern character and design of buildings.

4. The appeal site lies within the York Central Historic Core Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. This is also reflected in the approach set out within the National Planning Policy Framework (the Framework), which advises 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.
5. The York Central Historic Core Conservation Area Appraisal (the CA Appraisal) highlights there to be 24 separate Character Areas within the Conservation Area. The appeal sites are set within Character Area 20: Bishophill, with the wider character area identified as being derived largely from terraced housing of mid and late 19th Century with brick and slate roofs the predominant materials. As I observed in the vicinity, there are a number of properties where timber windows have already been replaced with UPVC or non-traditional window designs, but I would agree with the Council's assessment that the significance of the heritage asset is still at least in part revealed through the continued use of sash windows as the predominant style.
6. The buildings within which the replacement windows would be situated are more modern in character and design and I would agree with the assessment that in themselves they make no more than a neutral contribution to the character and appearance of the Conservation Area.
7. Despite the above, the current arrangement of the windows as casements incorporating visible vents and lacking in any discernible profiles with the windows appearing rather flat in their context could not be considered to be a positive aspect of the contribution to the significance of the heritage asset. This is particularly in light of the still prevailing traditional sash form and use of timber within the vicinity of the appeal site. Nevertheless, on the basis of the submitted details, there is an apparent general consistency between the design and form of the detailed design of the replacement windows as proposed, and in this respect I regard this aspect of the design of the proposals as not representing a worsening of the existing situation.
8. Turning to the use of materials, I am not persuaded that the use of UPVC in comparison with the existing use of timber is by contrast a clearly retrograde step in the context of the impact on the heritage asset in this instance. I accept the Council's point that a characteristic of UPVC is of being a clearly man-made intrusion but disagree that, in this specific instance, there would be the contended adverse impact given the existing use of timber and form of detailed design. I do not consider any subtle irregularities in the appearance of the existing timber to be the critical factor in defining the contribution of the existing fenestration on the character and appearance of the development within the Conservation Area as opposed to the use of UPVC, but that the detailing and proportion of the window designs are the main factors. As I have already concluded above, there is not an adverse impact over the existing fenestration in this regard.

9. Whilst I recognise that the existing visual quality of many of the timber windows is poor as a consequence of what would appear to be a lack of regular or careful maintenance, this has not been a factor in my decision-making in this regard. I have also had regard to the appellant's references to other developments in the vicinity and the Council's rebuttal with specific reference to identified addresses including Tuke House, Cromwell Road and 2-12 Victor Street as being detractors within the Conservation Area, as well as the utilisation of timber windows on other more contemporary developments in the vicinity of the appeal site. Whilst I have had regard to these points and contentions, as I conclude in the context of the appeal buildings, the proposed alterations would meet the statutory test of the preservation of the existing character and appearance of the heritage asset.
10. In determining the planning application, the Council has referred to Policies GP1 and HE3 of The City of York Draft Local Plan – incorporating the 4th set of changes Approved April 2005 (the Draft Local Plan) and Policies D1, D4 and D11 of the City of York Local Plan – Publication Draft February 2018 (the emerging Local Plan). However, in advance of the examination and adoption of the emerging Local Plan, I am satisfied that it must carry only very limited weight at this stage. As a consequence, the Council continues to rely upon the Framework and the Draft Local Plan, which was approved for development control purposes in April 2005, with both material considerations.
11. For the reasons set out, I have found that the proposal would preserve the character and appearance of the Conservation Area and is therefore in accordance with Section 72 of The Act, which states that great weight should be given to the asset's conservation. I have not therefore found there to be conflict with the policies of the Draft Local Plan or emerging Local Plan. These policies address the design of development and the expectation that they will respect or enhance the local environment, seek to ensure that development in conservation areas is only permitted where there is no adverse effect on the character and appearance of the area, and that the special character and appearance of the conservation area would be preserved or enhanced, with alterations to existing buildings responding to the architectural context. I have also not found there to be conflict with Chapters 12 or 16 of the Framework which address the need to achieve well-designed places and the conservation and enhancement of the historic environment.

Other Matters

12. In reaching my conclusions, I have had regard to the various submissions of interested parties in support of the proposed development. In particular, I have had due regard to the reference made to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In this instance, Age has been referred to as a protected characteristic pertinent to the occupation of the appeal properties as affected by the proposed development.
13. I accept that there may be a greater cost associated with the continued maintenance of timber windows and doors with the costs of undertaking such works shared between residents, but financial implications that may arise do not correlate with Age as a protected characteristic. Likewise, ill-health rather

than disability is not set out in Section 149(7) of the Equality Act 2010 as a protected characteristic. Furthermore, whilst I have no reason to dispute the claims that the use of UPVC for the replacement windows would present a more easily maintainable solution, I am not persuaded of the claims of their improved efficiency over timber options, which in themselves would also be capable of attaining excellent sustainability and energy efficient credentials.

14. Nevertheless, whilst I have had due regard to the PSED, in this instance as a consequence of my conclusions on the main issue I have not found my assessment of the impact of the development against the PSED would, or has changed my decision in this instance.

Conditions

15. The Council has not suggested any conditions and given the detail and information submitted, beyond the imposition of conditions related to the commencement of development and the approval of plans and details, I see no reason to impose any further.

Conclusion

16. For the reasons as set out, and subject to the conditions listed, the appeal is allowed.

Martin Seaton

INSPECTOR