



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: 6 May 2020

Appeal Ref: APP/C2741/W/19/3238563

Busk Cafe, 114 Fishergate, York, YO10 4BB

- 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 against the decision of City of York Council.
 - The application Ref 19/00365/FUL, dated 24 February 2019, was refused by notice dated 17 June 2019.
 - The development proposed is a glazed dormer to the front elevation.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site occupies a corner location at the junction between Fishergate and Sandringham Street. The property accommodates a commercial use on the ground floor in the guise of the Busk Café, with residential accommodation above. The appeal property sits as a two-storey end of terrace building on Fishergate. At the time of my visit it was evident that works had already been undertaken to the roof of the property, possibly in connection with the renovation referred to by the appellant at paragraph 9 of the Planning Appeal Statement of Case.
4. The appeal proposal is for the insertion of a glass dormer window in the front roof slope facing on to Fishergate. The dormer would comprise a fully glazed structure with glass windows, cheeks and roof, aligning with the position of existing glazing on the host property. With regards the proposed design, I have had regard to the appellant's contention, with reference to the National Planning Policy Framework (the Framework), that great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design.
5. The appellant contends that the dormer window would be of a contemporary and innovative design, and without precedent within the City. I accept that I have not been directed towards any other comparable examples of such contemporary development within the City. Nevertheless, in the absence of full specifications and details of the design of the glass dormer, I am not persuaded that the proposal has been demonstrated as being particularly innovative in its

design form or that the use of glass alone would qualify it in this regard. I therefore disagree with the appellant's assertion regarding the innovation of design in this respect which I consider to be unsubstantiated, and I do not consider that it would help raise the standard of design.

6. Turning to the context within which the proposed development is located, the Council has highlighted that the appeal property occupies a prominent corner position at the end of a terrace on a busy route leading to the centre of York, whereas the appellant contends that the property is barely visible. In this regard, whilst the appeal property is located within one of a number of terraces set along Fishergate and lacks the extent of prominence of a building such as the Light Horseman Public House, as an end of terrace the appeal property inevitably is of a greater visual prominence within the street scene than other buildings. I also noted from my observations that the terrace retains much of its traditional character with the front roof slope of the terrace unadorned with extensions and largely clear of other visual extrusions or alterations.
7. The Council has been clear that there is no objection in principle to high-quality contemporary design interventions on more traditional buildings. However, whilst the lightweight glazed design of the proposed extension may be contemporary in its scope, I agree that the design and scale of the dormer would appear as an obtrusive addition to the host building which is of a largely traditional Victorian character and form, and would detract from the established character and simplicity of the terrace and the positive contribution which it makes to the existing townscape. I do not therefore regard the proposed development to represent high quality design in this context.
8. I do not disagree with the appellant's submission that dormer windows set within front roof slopes are far from uncommon throughout York and I have had regard to the submitted photographs within the appellant's Statement of Case. However, it is clear from these submissions that many of the dormer windows are either integral to the design of the host property or form part of an existing or planned grouping. Whilst I don't have any detailed information regarding the specific circumstances of each development, where individual dormers have been approved, I would anticipate that careful consideration would have been given to their visual impact and context, as has been undertaken in my decision-making in this instance.
9. I have also had regard to the Council's concerns over the location of the appeal site and the adjacent terrace, being highlighted as occupying a position close to three separate conservation areas, these being the Central Historic Core, New Walk/Terry Avenue, and Fulford Road. I have also noted the assessment exercise that the appellant has undertaken as a means of quantifying the magnitude of impact of the development on historic buildings. However, whilst I accept that the proposed development would be experienced within the wider context of the nearby heritage assets, I do not consider that its location set apart from the Conservation Areas would result in any harm to their significance and there is no evidence presented that there is any harmful impact on the setting of a listed building.
10. In determining the planning application, the Council has referred to Policies GP1 and H7 of The City of York Draft Local Plan – incorporating the 4th set of changes Approved April 2005 (the Draft Local Plan) and Policies D1 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 result in an adverse effect on the character and appearance of the area. I therefore find there to be conflict with the policies of the Draft Local Plan and the emerging Local Plan. These policies address the design of development and the expectation that they will respect or enhance the local environment, wider townscape, and the character of the area, that the design is appropriate in relation to the main building, and responds positively to immediate architectural context. I have also found there to be conflict with Chapter 12 of the Framework which addresses the need to achieve well-designed places, for development to be visually attractive and sympathetic to local character.

Other Matters

12. I have been referred by the appellant to a recent appeal decision dated 23 July 2019 on a property on Clifford Street in York for 2no dormers on the north facing roof elevation (*Appeal Ref. APP/C2741/W/19/3226691*). The appellant contends that the proposals the subject of the decision for this property, which it is noted was located within the Central Historic Core Conservation Area, exhibits similar characteristics to that of the appeal property and decision. However, it is clear from the Decision Letter that the proposed dormer windows were to be located on the roof of a secondary elevation and were of traditional design and echoing the proportions of other dormers in the vicinity. Furthermore, the Inspector stated that they had noted a wide variety of forms within the existing roofscape close to the appeal site, and that the dormers were largely obscured from Clifford Street, which was the principal elevation of the building.
13. On this basis, it is evident that there are significant differences in the specific circumstances between the July 2019 appeal decision and the current proposals, particularly with regards the position of the approved scheme on the secondary rather than primary roof elevation. I do not therefore regard this earlier appeal decision as setting any form of precedent for the proposed development in this instance.
14. The appellant has also referred me to planning permissions for a glazed rooflight to the front elevation (*LPA Ref. 19/00981/FUL*) approved on 30 October 2019, and also for the installation of solar panels to the roof (*LPA Ref. 19/02035/FUL*) which was approved on 24 December 2019, both proposed at the appeal property. However, I do not consider that the form or nature of these approved developments is directly comparable to the design or nature of the appeal proposals, or indeed sets any kind of precedent from which support might be gleaned for a proposed dormer window.
15. My attention has been directed by the appellant to a lack of objections to the proposal as an indicator of its acceptability. However, the absence of objections to a proposal has no more than a neutral impact on the planning balance and therefore does not weigh in support of the proposal, which has been determined on its planning merits.

16. I recognise that the proposed development would have the potential to result in an improved standard of accommodation for the appellants, and this must therefore carry some limited weight in support of the proposal. Nevertheless, I am satisfied that this would not in itself be sufficient to outweigh the harm which I have found with regards the effect on the character and appearance of the area, and the conflict with the material considerations as listed.

Conclusion

17. For the reasons as set out, the appeal is dismissed.

Martin Seaton

INSPECTOR