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## Appeal Decision

Site visit made on 23 June 2020

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 July 2020**

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**Appeal Ref: APP/C2741/W/20/3248105**

**Acomb Grange, Grange Lane, Rufforth, York YO23 3QZ**

- 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 Peter Brown against the decision of City of York Council.
  - The application Ref 19/01362/FUL, dated 26 June 2019, was refused by notice dated 15 November 2019.
  - The development proposed is change of use of former stable block to dwelling.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Peter Brown against City of York Council. This application is the subject of a separate Decision.

### Procedural Matters

3. As part of the appeal, I have received written confirmation that the appellant is Mr Peter Brown as per the certificate of ownership submitted with the planning application.
4. The development plan comprises of the saved policies of the Yorkshire and Humber Regional Spatial Strategy and neighbourhood plans including the Rufforth with Knapton Neighbourhood Plan (2018). However, the decision notice does not rely on these documents and refers to policies in the City of York Draft Local Plan Incorporating the Fourth Set of Changes (2005) (DLP) and the City of York Local Plan - Publication Draft (2018) (LPPD). The evidence before me indicates that neither of these documents have been formally adopted and the LPPD is still going through the examination process. I am unaware of any outstanding objections or requirements for modifications. Accordingly, I have only been able to attribute limited weight to these policies in the determination of the appeal.

### Main Issue

5. The main issue is whether the proposal would provide suitable living conditions for future occupants with particular regard to means of outlook and privacy.

### Reasons

6. There is a single clear glazed window to the rear elevation of the building. The other existing windows are obscure glazed. These windows would not provide a

suitable means of outlook for occupants of the proposed dwelling. If the obscure glazed windows were replaced with clear glazing, this would have the potential to result in mutual overlooking between the new dwelling and the neighbouring dwellings to the west. Given the close proximity of the east and west facing elevations to the appeal site boundary, any substantial boundary screening erected to protect the privacy of occupants would have the potential to have a detrimental impact on the means of outlook from any clear glazed windows to these elevations.

7. The appellant suggests they are seeking to establish the principle of a change of use. However, it is clear that operational development would be required to implement the change of use proposed. Having regard to the above factors, and in the absence of detailed elevation and internal layout plans, I cannot be certain that acceptable levels of outlook and privacy would be provided for occupants of the dwelling. A condition requiring precise details of the internal layout and respective window types would not provide sufficient certainty that windows could be provided in a way which overcomes these concerns.
8. I acknowledge that part of the building currently has a residential element in the form of holiday let accommodation, and that a relatively intimate relationship already exists between neighbouring residential properties. Even so, this alone does not justify the potential for inadequate living conditions should the whole of the appeal building be occupied for more permanent residential purposes.
9. I conclude that it has not been demonstrated that the development would provide suitable living conditions for occupants of the dwelling. This conflicts with Paragraph 127 of the Framework which requires amongst other things that developments will function well and create places with a high standard of amenity for existing and future users.
10. In addition, the development would also be contrary to the requirements that seek to ensure developments are appropriately designed to provide suitable living conditions within Policy D1 (Placemaking) of the Publication Draft City of York Local Plan (2018) and Policy GP1 (Design) of the City of York Development Control Draft Local Plan (2005). These policies are a material planning consideration which also weigh against the proposal.

### **Other Matters**

11. The appellant contends that the Council did not positively engage with them during the planning application process. Whether or not this was the case, this is not a matter which would attract weight for or against the proposal and I must assess the proposal on its planning merits based on the details before me.
12. From what I saw on site, I agree with the Council that it is likely that new boundary treatments could be installed to ensure suitable private outdoor space could be provided to serve the dwelling. Such details could reasonably be secured by condition. However, the provision of suitable private amenity space is of neutral consequence in the overall planning balance.
13. The evidence before me indicates that the building sits within a site of archaeological importance. Given no groundworks are proposed the Council has not identified any harm to heritage assets and I find no reason to disagree. The

appellant contends that the proposal would be a beneficial use of a heritage asset. Even if I were to accept that the building itself has qualities which make it a non-designated heritage asset, it is in existing use as an office and holiday let. I am therefore not persuaded that the proposal is the only way in which the building could be put to effective use and can only attach limited weight to this matter.

### **Planning Balance and Conclusion**

14. In the absence of an adopted development plan with policies most important for determining the appeal, paragraph 11 (d) of the Framework is engaged.
15. The development would make a limited contribution towards the Council's housing requirements. I have found that other matters advanced only attract limited weight. However, the proposed development would conflict with the Framework insofar as, amongst other things, it requires that developments function well and provide a high standard of amenity. The adverse impacts identified would significantly and demonstrably outweigh the limited benefits of the development. This provides a clear reason for refusing the development proposed in line with paragraph 11(d) (i) of the Framework.
16. I therefore conclude that the appeal should be dismissed.

*M Russell*

INSPECTOR