



Appeal Decisions

Site visit made on 22 June 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal A Ref: APP/C2741/W/19/3241638

32 Clarence Street, York YO31 7EW

- 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 M Dougherty, York St John University against the decision of City of York Council.
 - The application Ref: 18/02878/FUL, dated 15 December 2018, was refused by notice dated 24 May 2019.
 - The development proposed is alterations in association with refurbishment of 32 and 34 Clarence Street to include part demolition of existing single storey rear extension and erection of new single storey flat roof extension to rear yard.
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Appeal B Ref: APP/C2741/Y/19/3241632

32 Clarence Street, York YO31 7EW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr M Dougherty, York St John University against the decision of City of York Council.
 - The application Ref: 18/02879/LBC, dated 15 December 2018, was refused by notice dated 24 May 2019.
 - The works proposed are internal alterations in association with refurbishment and revised internal layout to 32 and 34 Clarence Street to include insertion of 4no. rooflights, part demolition of existing single storey rear extension, and erection of a new single storey flat roof extension to rear yard.
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Decisions

1. **Appeal A** – the appeal is dismissed.
2. **Appeal B** – the appeal is dismissed.

Procedural Matters

3. These decisions address both planning permission and listed building consent appeals for the same site and for the same scheme. The remit of both regimes is different, and the main issue identified below relates to both Appeal A and Appeal B. In order to reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.
4. In the banner headings above I have used the descriptions of development and works as they appear on the Council's Decision Notices and the appellant's appeal forms, rather than the description of the proposal as stated on the

application form¹. These descriptions more accurately capture the scope of the proposed development and works and I have determined the appeals on this basis.

5. The site address is stated on the application form as 32 Clarence Street. However, the red line boundary as drawn on the site plan includes both 32 and 34 Clarence Street and the proposed development and works relate to both buildings and their rear curtilages. Therefore and for the avoidance of doubt, I have taken the appeal site address to be 32 – 34 Clarence Street and determined the appeals on this basis.
6. In its reasons for refusal the Council cite policies contained in the City of York Local Plan – Publication Draft (2018) (the Emerging LP) and policies in the City of York Draft Local Plan (2005) (the Draft LP) which has been approved by the Council for development control purposes. As neither of these plans have been formally adopted, I have given them weight only insofar as they are consistent with the National Planning Policy Framework (the Framework).
7. Since the submission of the appeals the Council has granted planning permission and listed building consent for external and internal alterations in association with the refurbishment and revised layout to 32 and 34 Clarence Street². However, apart from the delegated reports, I have not been provided with any details or plans of the granted development and works. Therefore, I have determined the appeals before me on their own planning merits.

Main Issue

8. The main issue in both appeals is whether the proposed development and works would preserve the Grade II listed buildings of 32 and 34 Clarence Street, including their setting and any features of special architectural or historic interest which they possess.

Reasons

9. The appeal site is located on Clarence Street, which is to the north of the main University Campus and just outside of York's Central Historic Core Conservation Area. The appeal buildings, Nos 32 and 34 Clarence Street (Nos 32 and 34), are terraced townhouses which date from the mid-19th century and are individually listed Grade II. In recognition of their special interest and significance in the townscape, they are also listed for group value.
10. No 32 is a two storey, two bay, mid-19th century house constructed of brick with a roof of slate on the front pitch and pantile on the rear pitch. At the rear, it has a later two storey extension, sited along the southern boundary of the plot, and a single storey porch. No 34 is a three storey, two bay, mid-19th century house with a late 19th century timber shop frontage. It is constructed of brick with painted stone dressings and a slate roof. At the rear it has a later low, two storey extension and a further long, single storey addition sited along the northern boundary of the plot. The buildings have largely retained their historic fenestration of single-glazed, multi-pane, painted, timber, sliding sash windows. Both properties are stated to have been vacant since late 2016. The

¹ Application Form Description of the Proposal: Refurbishment and revised layout to 32 and 34 Clarence Street. Demolish part existing single storey rear extension, and construct new single storey flat roof construction to the shared rear yard to provide relocated university GP and counselling services.

² Application Refs: 19/02711/FUL and 19/02712/LBC.

plot boundary between the two houses at the rear has been removed to create a shared yard which is surfaced in modern materials.

11. Internally, despite the alterations to No 34 to accommodate the later shop and the installation of more recent partitions that have subdivided some of the rooms, the original plan form survives to a large extent and remains legible within both properties. Furthermore, even though the buildings have undergone change, key historic features remain insitu in some rooms, such as staircases, panelling, window architraves, doors, door architraves, cornices and picture rails.
12. From the evidence available to me, I consider that the special interest and significance of the listed buildings, when assessed both individually and as a group, to be largely derived from their historical illustrative value and aesthetic designed value as domestic, terraced town houses of mid-19th century date. Their age and architectural form, possessing a pleasing modest design, along with the later shopfront addition to No 34 and the surviving historic plan form and internal features, all make important contributions to their special interest and significance. In addition, the open area to the rear, being the remains of the buildings' historic plot form and their setting, makes an important contribution to their significance.
13. The proposal comprises the erection of a single storey rear extension with a mono pitched green roof which would overlook a new sensory garden. Frameless glazed links would extend across the width of the rear yard to join the new extension to the rear ranges of No 34. It also involves internal alterations to both buildings, including the installation of thermal linings to some rooms (stated as insulated drylinings on the Proposed Layout Plans³). The intention of the scheme is to provide new accessible medical and mental health facilities for University students, office accommodation for University staff and non-commercial accommodation for short-term visiting lecturers.
14. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
15. Whilst the proposed extension with glazed links would be clearly subservient in height to the host buildings and relatively lightweight in appearance, it would introduce substantial built form extending across the width and along the length of the yard. This would adversely obscure the ground floors of the listed buildings to a large degree and detrimentally erode the surviving open space at the rear. It would also fundamentally fail to preserve the historic plot form of the site and run contrary to the historic character and grain of development within the area.
16. Moreover, even though it would clearly be a new addition that would not compete with the reserved architecture of the listed buildings, such an overtly contemporary approach of such a size and scale would jar with and detract from their rear elevations. The proposed extension would be readily visible and

³ Drawing Ref: C-PA-04 Rev B Proposed Layout Plans.

highly conspicuous from public routes at the rear of the building, which would highlight its discordance on the listed buildings and in the townscape.

17. In these respects, the proposed extension would fail to enhance or better reveal the identified significance of the listed buildings and the contribution that their setting makes to their significance.
18. I concede that elements of the proposal would have the potential to enhance the buildings and their setting, such as the removal of the later porch, the incorporation of a green roof on the extension and the creation of a landscaped garden. However, these would not be sufficient to overcome the primary objections to the combined size, scale and form of the proposed extension.
19. The appellant has highlighted that many of the adjacent plots have been developed with 'little or no attempt to maintain the historic plots.' Be that as it may, I do not have the full details of these other developments before me and therefore do not know the exact circumstances that led to these permissions being granted. Indeed, in my judgement, they only serve to illustrate quite clearly the adverse impact that substantial development can have on the integrity of historic plot forms and gives greater importance to their retention where they survive and are legible, as at Nos 32 and 34.
20. The second reason for refusal in Appeal B concerns the proposed installation of thermal linings in the front and rear second floor rooms of No 34. The Council contend that they would diminish the design value of the architraves in these rooms as well as necessitating further alterations, for example to window sills, which would harm the character of the listed building.
21. Although the appellant declares that 'no alteration to the existing sills or other historic features will be required', no large scale detail and/or section have been provided which confirms the impact, if any, that the proposed thermal linings would have on the existing window architraves or door architraves. Given the location and considerable depth of the thermal linings as shown on the Proposed Layout Plans, it would be reasonable to assume that there would be some impact which would potentially harm the architectural and aesthetic integrity of these internal features which, in turn, would not sustain the significance of the listed building.
22. Reference has been made by the appellant to other listed buildings under the ownership of the University where thermal linings have been agreed with the Council and installed. It is declared that this thermal lining solution 'was designed specifically to enhance and emphasise the original windows.' Nonetheless, I have not been provided with any details of the buildings referenced or the thermal lining solution agreed. Consequently, I am unable to draw any comparisons with the proposal before me.
23. Taking all of the above into account, I find that the proposed development and works would fail to preserve the Grade II listed buildings of 32 and 34 Clarence Street, their setting and any features of special architectural or historic interest which they possess. In doing so, the proposal would harm the significance of these designated heritage assets. I give this harm considerable importance and weight in the planning balance of these appeals.
24. With reference to Paragraphs 195 and 196 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm

- should be assessed. Given the relatively localised nature of the proposed development and works, I find the harm to the listed buildings and their setting to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 196 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the buildings' optimum viable use.
25. The proposal would result in the refurbishment of two listed buildings and the retention and repair of surviving features of interest; improvements in the thermal efficiency of some of the rooms and reduction of energy costs due to the thermal linings; the enhancement of their appearance on Clarence Street; and, the creation of a landscaped garden to the rear which would enhance their setting. It would also secure the buildings' reuse as an accessible GP and counselling facility for University students, University staff and the wider community. Although these outcomes would be of some private benefit to the University, they would provide tangible cultural, economic, social and environmental benefits to the City and would make a positive contribution to the community. These meaningful public benefits carry moderate weight in favour of the appeals.
26. I am mindful of the vacant, dilapidated and vulnerable nature of the buildings and the poor quality of the space to their rear. I also note the Council's commitment to reducing carbon emissions and making York carbon neutral by 2030. I have also given careful consideration to the representations and letters of support for the proposal from the Guildhall Planning Panel and representatives from local professional service providers.
27. However, although the harm in this instance may be considered 'less than substantial', this should not be equated with a less than substantial planning objection. I am not persuaded that the proposed development and works are necessary to secure the optimum viable use of the buildings or that the same public benefits could not be achieved by a less harmful scheme.
28. Whilst I give moderate weight to the identified public benefits, these are not sufficient to outweigh the considerable importance and weight given to the identified harm to the significance of these designated heritage assets.
29. Given the above and in the absence of sufficient public benefits that would outweigh the harm found, I conclude that, on balance, the proposal would fail to preserve the Grade II listed buildings of 32 and 34 Clarence Street, their setting and any features of special architectural or historic interest which they possess. This would fail to satisfy the requirements of Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions within the Framework which seek to conserve and enhance the historic environment.
30. It would also conflict with Policies ED4, D1 and D5 of the Emerging LP insofar as they seek to ensure that development proposals take into account the sensitive location and setting of the York St. John University Lord Mayor's Walk campus; enhance York's special qualities and better reveal the significances of the historic environment; and preserve, enhance or better reveal those elements which contribute to the significance of the listed building or its setting. It would also not accord with Policies HE4 and HE2 of the Draft LP insofar as they seek to ensure that development proposals have no adverse effect on the character, appearance or setting of listed buildings and respect

the setting of listed buildings. I find these policies to be generally consistent with the provisions of the Framework and give significant weight to them. As a result, the proposal would not be in accordance with the development plan.

Other Matters

31. I note that the site lies in an Area of Archaeological Importance and, therefore, it is possible that excavations for foundations and service connections may reveal or disturb archaeological features. However, as I am dismissing the appeal for other reasons, this matter is not determinative and I have not considered it any further.
32. I am aware that no comments regarding the proposal were received from Historic England or occupiers of adjoining buildings. Nevertheless, it is generally not within the remit of Historic England to comment on works to Grade II listed buildings and the lack of objection from neighbours does not denote a lack of harm.
33. I observe the appellant's comments regarding the conduct of the Council and its failure to support the proposal in contradiction to its own policies. However, I have found that the proposed development and works would cause harm to the significance of the designated heritage assets and their setting which, in turn, would conflict with the relevant policies within the development plan.

Conclusion – Both Appeals

34. For the reasons given above, I conclude that both Appeal A and Appeal B should be dismissed.

F Cullen

INSPECTOR