



Appeal Decisions

Site visit made on 15 December 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal A Ref: APP/C2741/W/20/3257828 **24 Holgate Road, York YO24 4AB**

- 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 Andrew Higgins against the decision of City of York Council.
 - The application Ref: 20/00681/FUL, dated 11 April 2020, was refused by notice dated 2 July 2020.
 - The development proposed is alterations to the rear yard walls to insert gates.
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Appeal B Ref: APP/C2741/Y/20/3257829 **24 Holgate Road, York YO24 4AB**

- 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 Andrew Higgins against the decision of City of York Council.
 - The application Ref: 20/00534/LBC, dated 15 March 2020, was refused by notice dated 2 July 2020.
 - The works proposed are alterations to the rear yard walls to insert gates.
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Decisions

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

Procedural Matters

3. The appeals relate to the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. The appeal proposal relates to the rear yard boundary walls of No 24 Holgate Road (No 24). The proposal originally comprised the demolition of the side boundary wall facing Lowther Terrace and its replacement with a folding timber gate, along with the part demolition of the rear boundary wall facing the rear lane and its replacement with a single pedestrian timber gate. I observed on site that these development and works have already been carried out.
5. However, during the determination of the applications, the proposal was amended and revised drawings were submitted¹ which formed the basis of the Council's decisions. Therefore and for the avoidance of doubt, I have determined the appeals on the basis that the proposed development and works have not been carried out and with regard to the revised drawings.

¹ Revised Drawings: 05-019.10 Rev A Location Plan and Site Plan; 05-019.12 Rev A Proposed Plans and Elevations; and Letter containing Historic Photos and Mapping.

6. There is a discrepancy in the information submitted by the Council as to the location of the appeal site in relation to the boundary of the York Central Historic Core Conservation Area (the CA). The Council's officer report and decision notice refer to No 24 as being within the CA, but comments provided by the Council's Conservation Officer state that the property abuts the CA, with the boundary running along the party wall between Nos 24 and 26 Holgate Road. The submitted plan of the CA is not conclusive in this regard. Upon request, the Council has confirmed that the appeal site is located within the CA and I have determined the appeals on that basis.
7. In the decision notices the Council cites 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).

Main Issues

8. The main issues are whether the proposal would i) preserve the special interest of the Grade II listed building, 24 Holgate Road; and, ii) preserve or enhance the character or appearance of the York Central Historic Core Conservation Area.

Reasons

Special interest and significance

9. No 24 is an end of terrace property which, although being set back from the adjoining terrace and Holgate Road, occupies a prominent corner position in the townscape. The property dates from the mid-19th century and is Grade II listed. It is a two-storey with attic, dwelling which is constructed of brick with some painted stone dressings and a natural slate roof.
10. At the rear of the property there is a small enclosed yard, the boundary treatment of which is the subject of the appeals. Photographs in the submitted evidence illustrate that, prior to the existing development and works being carried out, the side boundary treatment was a full height brick wall, laid in English garden wall bond, with stone copings and a single pedestrian timber gate at the junction with the house; and that the rear boundary treatment was a full height brick wall, laid in what appears to be stretcher bond, with stone copings.
11. The property forms part of a wider group of individually listed properties along the terrace, including Nos 26 and 28 Holgate Road, which are also Grade II listed. In recognition of No 24's contribution to the street scene, the property is also listed for group value as an integral part of Holgate Road.
12. From the evidence available to me, I consider the special interest and significance of No 24, when assessed both individually and as part of a group, to be largely derived from its historic interest and architectural interest as a mid-19th century domestic property which forms part of the residential townscape in this area of York. The building's age, pleasing architectural form and use of traditional materials all contribute positively to these heritage interests and the value of this designated heritage asset.

13. The appellant does not dispute the special interest and significance of the principal dwelling of No 24. However, he contends that the rear boundary enclosure is not original to the property when built and has submitted an archive photograph and historic map extract to substantiate his claim. Whilst the Council has not conclusively demonstrated that the brick boundary wall is part of the original fabric of the house, as the wall is physically attached or 'fixed' to No 24, for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) it forms part of the listed building².
14. Furthermore, having regard to the very limited archive evidence provided and my observations of the wall on site, even if I were to accept that the wall is not original to the property, I am not persuaded that it is of no or limited historic interest. The formal enclosure of the space at the rear of the building is characteristic of 19th century terraced housing, and the wall's materials and construction correspond to those of the host building. In these respects, I am satisfied that the rear boundary enclosure forms part of the buildings' historic plot form and the wall as a whole makes an important contribution to No 24's special interest and significance.
15. The appeal property also lies within Character Area 24: The Mount, of the CA. The character and appearance of the CA is derived in part from the preservation of its historic core and street pattern, along with the architectural richness and variety of its historic buildings, comprising imposing landmark structures as well as modest retail and domestic properties, which all stem from its multi-faceted history. The heritage interest and value of the historic residential properties and their curtilages within 'The Mount' area positively contribute to the character and appearance of the CA and thereby to its significance as a designated heritage asset.

The appeal proposal

16. The proposed development and works, as illustrated in the revised drawings, includes the part demolition of the rear boundary wall and the installation of a full height, timber, four panel, folding gate. Given the existing development and works which have already been carried out, the proposal would also involve the rebuilding of the side boundary wall and reinstatement of the single pedestrian gate at the junction of the wall with the house. The initial proposal stated that the gates would be painted in black gloss paint and I have taken this to also be the case in the revised proposal.

The effect of the appeal proposal

17. I acknowledge that, as highlighted by the appellant, the boundary wall has been altered in the past. Nonetheless, the proposal would involve the removal and loss of a considerable section of the rear boundary wall and thus historic fabric of the listed building. Even though it is intended that these bricks would be salvaged and reused to rebuild the previously demolished side boundary wall, which would maintain the character of No 24 in views from Holgate Road and support its contribution to the group value of the terrace, there would still be an overall loss of important historic fabric.
18. The proposed folding timber gate would retain the height and line of the boundary wall. However, its less substantial form and material, excessive width

² Section 1(5)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

and contemporary design would weaken the strong and formal nature of the existing brick boundary enclosure to No 24 and erode the historic and architectural integrity of this important element of the listed building.

19. Moreover, I recognise that the folding timber gate would not be visible from the principal route of Holgate Road. Nonetheless, the prominent corner location of the property would mean that, even if the gate was painted black, it would be an unduly conspicuous and inharmonious feature within the rear boundary wall when viewed from the adjacent public routes at the rear of the property.
20. In these respects, the proposal would adversely lessen No 24's special interest, undermine its heritage value and harm its significance as a designated heritage asset. Furthermore, in my judgement, if the special interest and significance of No 24 would be harmed in this way, it follows that there would be some residual and incremental harm to the townscape and thus it would not preserve or enhance the character or appearance of the CA as a whole.

Public benefits and heritage balance

21. Paragraph 193 of the Framework advises that when considering the impact of 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 the alteration or destruction, or from development within the setting, of those assets and that this should have clear and convincing justification.
22. 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 fairly limited extent and localised nature of the proposed development and works, I find the harm 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 building's optimum viable use.
23. The appellant submits that the proposal would facilitate the transfer of large items into the rear private garden and allow occupants to enjoy a wider aspect if using the space for private amenity. Nonetheless, these benefits would essentially be of a private nature to the appellant and/or any occupants of the house. In addition, there is nothing before me which confirms that the optimum viable use of the building as a residential property would be at risk if the appeals were to fail and the proposal was not implemented.
24. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage assets of the listed building and the CA, I find that there would be insufficient public benefits arising from the proposal which would outweigh that harm.
25. 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 special interest of the Grade II listed building, 24 Holgate Road; and, would fail to preserve or enhance the character and appearance of the York Central Historic Core Conservation Area. As such, it would be contrary to the requirements of sections 16(2), 66(1) and 72(1) of the Act and Paragraphs 192, 193 and 194 of the Framework.

26. It would also conflict with Policies D1, D4, D5 and D11 of the Emerging LP in so far as they seek to ensure that development proposals enhance York's special qualities and better reveal the significances of the historic environment; enhance or better reveal the significance of conservation areas and their setting; preserve, enhance or better reveal those elements which contribute to the significance of listed buildings or their setting; and, respond positively to its immediate architectural context and local character and history.
27. It would also not accord with Policies GP1, HE2 and HE3 of the Draft LP which, together and amongst other things, seek to ensure that development proposals respect or enhance the local environment; maintain or enhance townscape elements which contribute to the character or appearance of the area; and have no adverse effect on the character and appearance of the area. In addition, it would not comply with section 'xv Boundaries', of the House Extensions and Alterations (Draft) Supplementary Planning Document 2012.
28. I find these policies and guidance to be generally consistent with the provisions within the Framework which seek to conserve and enhance the historic environment and achieve well-designed places. As such, I give significant weight to the harm which arises from the conflict I have found with them. Therefore, the proposal would not be in accordance with the development plan.
29. The Council also cites the proposal's conflict with Policy H7 of the Draft LP. However, as Policy H7 relates to residential extensions, it is not relevant to the appeal proposal.

Other Matters

30. In coming to my decision I have had regard to the appellant's assertions that there is limited survival of 'historic' boundary enclosures within the surrounding area and that timber gates would provide a continuation of the evolution of the street scene. Although it is clearly apparent that the wider area and the rear boundary enclosures of properties along this part of Holgate Road have been subject to considerable alteration, in my view, this gives greater importance to the retention of historic boundary enclosures where they survive and are legible, as at No 24.
31. My attention has been specifically drawn to alterations to the rear boundary enclosures of adjoining and adjacent buildings which are also listed and located in the CA. This includes No 28 Holgate Road which possesses a two-storey extension incorporating a full width metal garage door that was granted planning permission and listed building consent by the Council³.
32. I note that this scheme was approved around 2006, therefore, whilst the relevant statutory duties contained within the Act and the local Policy context have not changed, there has been a significant and material change in the national policy context within which the proposal is assessed and determined. Namely, the publication of the Framework in 2012 (latest revision in 2019). Given this material change in circumstances, the previous grant of planning permission and listed building consent by the Council for development and works to an adjacent property is not, of itself, a reason to allow the appeals.
33. Moreover, no detailed information has been provided of when the alterations to any of the other nearby boundary enclosures were carried out and whether

³ Application Refs: 05/02278/FUL and 06/01112/LBC.

they required and/or obtained planning permission and/or listed building consent. Therefore, in my judgement, they do not set a precedent and I can only give them limited weight in my determination of the appeals.

34. In any event, I have considered the appeal proposal on its own merits, having regard to the significance and specific context of the appeal building, and found that it would cause harm.
35. I am aware that no objections to the proposal were raised by the Holgate Planning Panel or the Local Highway Authority; that the Council concluded the proposal would have no adverse effect on the living conditions of occupiers of adjacent buildings; and that no representations were received from any owners or occupiers of neighbouring properties. Nonetheless, these are neutral considerations in the balance and do not lead me away from my overall conclusion.

Conclusion – Both Appeals

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

F Cullen

INSPECTOR