
Appeal Decision

Site visit made on 25 February 2021

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 8 March 2021

Appeal Ref: APP/C2741/W/20/3264092

Land between 4 and 6 Howard Street, York YO10 4BQ

- 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 Project 2017 Ltd against the decision of City of York Council.
 - The application Ref 20/00899/FUL, dated 10 November 2020, was refused by notice dated 14 October 2020.
 - The development proposed is described as infill development above existing private lane to provide 1 no. 1 bed duplex flat.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form submitted with this appeal is dated 10 November 2020 and hence after the date of the Council's decision. The Council's Decision Notice refers to the date that the application was received as being 2 June 2020. Although I have no conclusive evidence whether the date on the application form is correct or otherwise, I have determined this appeal on the basis of the submitted information and that a planning application was duly made by the appellant and determined by the Council.
3. The Council has referred to policies contained within the Publication Draft City of York Local Plan 2018 (the emerging Local Plan). Although this emerging plan has been submitted for examination it has not yet been adopted. I have no evidence to indicate the extent of any unresolved objections to the relevant policies contained therein or their degree of consistency with the National Planning Policy Framework (the Framework). Therefore, in accordance with paragraph 48 of the Framework I have attached moderate weight to the policies contained within the emerging plan.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - The effect of the proposed development on potential non-designated heritage assets and the setting of the Fulford Road Conservation Area.
 - The effect of the proposed development on highway and pedestrian safety.

Reasons

Character and appearance

5. The appeal site comprises a gap between dwellings at Nos 4 and 6 Howard Street which is located on the north-western side of the street. This gap, located between a pair of semi-detached properties to the south west and a terraced block to the north east, provides an access to a new residential development of nine dwellings. This development was under construction at the time of my site visit.
6. Howard Street is a relatively short cul-de-sac with the south-eastern side of the street comprising of a continuous block of 2-storey terraced dwellings with steeply pitched dormers in the front roofspace. The Council indicates that the dwellings are of 1880s in design. They have traditional bay windows at ground floor and are constructed in polychromatic brickwork with ornate detailing. The dwellings in the vicinity of the appeal site have small private front gardens with low brick walls and metal railings.
7. The north western side of the street is less cohesive in its appearance than the opposite side of the street. The semi-detached dwellings (Nos 2 – 4) and the terraced block (Nos 6 - 14) are of the same design and construction age as the block on the opposite side of the street. However, the side and rear elevation of the property at No 87 Fulford Road also forms part of the street scene and comprises a number of two-storey and single-storey attached outrigger buildings and hard surfaced parking court. Consequently, these features, together with the gap comprising the appeal site, to some extent disrupt the perception of consistency and cohesion on this side of the street.
8. The proposed development would involve the construction of a one bedroom dwelling positioned in the gap between Nos 4 and 6 and providing accommodation in the first and second floors. The accommodation in the second floor would be in the roof space. The ground floor would comprise of the stairs and a small cycle store, positioned along the boundary with No 6, with access, albeit slightly narrower, retained to the development to the rear of the appeal site.
9. The proposed dwelling would be of a more plainer design than the adjoining buildings. It would be set back from the front facades of the flanking buildings and have a slightly lower ridge height. The front elevation would have the appearance of an arched passageway at ground floor level which would retain some views of the development to the rear. At first floor level the two windows proposed would have similar sill and header positions to those of the flanking buildings. However, the width of the main window serving the living room would be greater than others in the proximity of the appeal site. In addition, the smaller living room window would be positioned close to the flank wall of No 6.
10. The proposed window at first floor level in the rear elevation would be of similar size to that serving as the main window in the front elevation. However, the head of the window would be higher, and the sill lower, than those of the adjacent dwellings. In addition, this window would take the form of a bay that would project slightly beyond the main first floor rear elevation of adjacent properties. Rooflights are proposed in the rear roof to serve the second floor accommodation.

11. A flat roof dormer would be positioned in the front roof to serve the second floor accommodation. Whilst the glazing style of the dormer would be generally commensurate with that of windows elsewhere on the street, the submitted plans indicate that the windows at first floor level would be steel double glazed W20 style, which would be similar to those proposed for the facade of the flat block fronting Fulford Road which forms part of the development to the rear. Nonetheless, I consider that the proposed window style and size at first floor level in the context of Howard Street would contrast markedly and unacceptably with the predominant window style on the rest of the street.
12. In being set back from the front facades of the adjacent buildings and having a lower ridge height I consider that the proposed building would appear subservient to those on its flanks. In the context of the character of this side of the street, I consider the principle of the form of development proposed with a covered archway to be acceptable in terms of scale, mass, height and position. In my view, the principle of the proposed development would add to, rather than detract from, the cohesion of buildings on this side of the street. In this regard, I accept the appellant's views that it is not uncommon for Victorian mews courtyards to be accessed through a covered archway.
13. However, I find that the size, form and glazing style of the main windows proposed at first floor level would markedly and unacceptably contrast with those of the adjoining buildings and those on the opposite side of the street. This would have the effect of drawing the eye thereby undermining the subservient approach adopted in the design.
14. I recognise that a more plainer design approach, rather than pastiche, has been adopted. However, the proposed flat roof front dormer would appear as a modern box-style which would unacceptably contrast with the more elaborate Victorian dormers on the street.
15. Notwithstanding my views regarding the principle of the development, I find that the proposed fenestration and design of the front dormer would collectively and individually appear as unacceptable discordant features which would markedly contrast with those in the front and rear elevations of adjoining and nearby dwellings. Consequently, the proposal would cause unacceptable harm to the character and appearance of the surrounding area.
16. In being unsympathetic to local character, it would therefore be contrary to the provisions of paragraph 127 of the Framework. It would also be contrary to Policy D1 of the emerging Local Plan. This emerging policy, amongst other things, indicates that development proposals that cause damage to the character and quality of an area will be refused.

Designated and non-designated heritage assets

17. Neither the appeal site nor Howard Street, are located in a Conservation Area. The Fulford Road Conservation Area lies to the west and south of Howard Street. Owing to the relatively narrow nature of Howard Street and its oblique alignment to Fulford Road, views of the appeal site are not readily attainable from Fulford Road. Furthermore, given the proposed set back of the development from the front facades of the flanking properties, I do not consider that any views of the appeal site would be seen in the context of the overall character of the Fulford Road Conservation Area.

18. Whilst it may be argued that the appeal site is within the setting of the Conservation Area, owing to the alignment of the street, the set back of the proposed development and the intervening distance to the Conservation Area boundary, I do not consider that the appeal site makes any material contribution to the setting of the Conservation Area. Consequently, I consider that the proposed development would preserve the setting of the Conservation Area. In arriving at this conclusion, I have had full regard to the desirability of preserving the setting of heritage assets and the need to give due weight to any harm in that respect as set out in the Framework.
19. The Council indicates that Howard Street is considered to be a non-designated heritage asset. However, no evidence has been provided by the Council in this appeal of any adopted policy, list or any other documentation to indicate conclusively that Howard Street has been formally designated as a non-designated heritage asset. The appellant has provided evidence of relatively recent consultations with the Council in this regard which suggest that the Council does not have an adopted local heritage list. The appellant considers that the Council's assertion that Howard Street is a non-designated heritage asset does not appear to be supported by any factual evidence.
20. Notwithstanding the lack of any formal evidence, if Howard Street has been formally identified as a non-designated heritage asset the advice provided in paragraph 197 of the Framework would be applicable. This identifies that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
21. In general terms, I accept that Howard Street is a relatively cohesive form of development and has a high degree of architectural integrity. However, the proposed development would not result in the loss of any non-designated heritage asset and, given my findings above, I do not consider that the principle of the development would cause a loss of cohesion or necessarily cause demonstrable harm to the architectural integrity of the street.
22. I do accept that the design of the proposed dwelling in this appeal, particularly in terms of the design of the dormer and fenestration would cause harm to the character and appearance of the street. However, in the absence of any formal evidence regarding the designation of Howard Street as a non-designated heritage asset I am unable to conclude that the proposal would detract from the historical character of a non-designated heritage asset. Consequently, I am unable to attach any weight to the Council's view that the proposed development would also be contrary to Policy D7 of the emerging Local Plan in respect of harm to non-designated heritage assets.

Highway and pedestrian safety

23. Howard Street is relatively narrow with designated on-street parking bays provided almost continuously along the south-eastern side of the street and intermittently along the north western side. The usable width of the road only allows for the passage of one vehicle in areas where cars are parked on both sides. Any vehicles traversing the street have to wait in any gaps in the parking areas if an oncoming vehicle is encountered. Consequently, I observed at my site visit that these factors cause vehicle speeds on the street to be low.

24. The development to the rear of the appeal site provides for 9 dedicated car parking spaces accessed through the gap between Nos 4 and 6. The proposed development would result in a narrowing of the width of the passageway to approximately 3.17m in the vicinity of the proposed stairs and cycle store. To the front and rear of the proposed built development at ground floor level the access would be retained at a width of approximately 4.7m. I observed at my site visit, when vehicles were parked in the passageway between the flank walls of the adjacent properties, that the presence of the gable walls and the available width would make passing manoeuvres for two cars highly unlikely in the vicinity of the existing gable walls.
25. There is some dispute between the main parties whether the approved access width to serve the development to the rear is 3.1m. Irrespective of whether the 3.1m constitutes the approved access width to serve the development to the rear, I do not consider that two vehicles could reasonably pass in the width available either with or without the proposed development. The consequence of this is that vehicles wishing to pass whilst accessing or egressing the development to the rear would need to wait in the passing places shown on the submitted plan or on Howard Street.
26. The appellant has drawn my attention to the Highway Safety Review Assessment prepared by Meraki Alliance Limited, dated 7th September 2020. This identifies that the development at the rear of the site will likely generate six vehicle trips during weekday peak hours, three in the AM peak and three in the PM peak which equates to roughly a single vehicle movement every 20 minutes.
27. The report also identifies ten non-motorised peak hour trips (cyclists and pedestrians) arising from the development at the rear. These movements would be split between the proposed access onto Fulford Road and onto Howard Street. It identifies that there would be a total of five non-motorised trips travelling via Howard Street with two AM and three PM movements.
28. The report considers that cyclists are more likely to use the vehicle access onto Howard Street whereas it is expected that most pedestrians will use the ginnel running behind numbers 2 and 4 Howard Street. The report considers that the likelihood that a cyclist or pedestrian using the access onto Howard Street at the same time as a vehicle is very low. I have no contrary evidence from the Council to suggest that the conclusions of the Highway Safety Review may be incorrect.
29. Given the relatively low frequency of motorised and non-motorised movements I consider that the potential for conflicts in such movements to be low. The proposed development would not materially change the visibility at the junction of Howard Street with the passageway. Although the frontages of the flanking properties have low level walls with relatively thin metal railings these provide an acceptable degree of pedestrian and vehicular intervisibility in the vicinity of the junction.
30. I accept that there may be occasions when a vehicle wishing to turn into the passageway off Howard Street may have to wait to enable a vehicle to egress from the development at the rear. In worst case situations, this may also entail a vehicle having to reverse slightly back into Howard Street. However, such scenario could occur now with the existing situation. The relatively low volume of traffic movements on Howard Street, the low vehicular speeds and

the position of the designated parking bay outside Nos 2 and 4, are factors that lead me to conclude that the available space and highway conditions would enable any such vehicular conflict to be managed without unacceptably compromising highway safety.

31. There may also be occasions when motorised and non-motorised movement conflict may occur in the passageway itself. However, I consider that adequate space would be retained between the position of the frontage of the ground floor cycle store and the highway boundary with Howard Street for users to observe the potential for any such conflict and take evasive action. Sufficient space would be retained at the rear of the stairway at ground floor level also for any necessary evasive action to be taken, particularly as vehicle speeds would likely be low due to the constrained width of the available highway on Howard Street and the narrow nature of the passageway.
32. Taking all of the above factors into account, I do not consider that the proposed development would have a detrimental impact on highway or pedestrian safety of an extent that would be so unacceptable to warrant the dismissal of this appeal on those grounds. Consequently, there would be no conflict with the provisions of paragraph 109 of the Framework or Policies D1 or T1 of the emerging Local Plan. These policies, amongst other things, require development to provide safe and appropriate access to the adjacent adopted highway and create safe and secure layouts for motorised vehicles, cyclists and pedestrians that minimise conflict.

Other matters

33. I accept that the proposed dwelling would make a useful yet very small contribution to housing supply in the City. Whilst such contribution may rightly be seen to weigh in favour of the proposals it does not outweigh the significant harm identified above that the proposal would cause to the character and appearance of the area.
34. I have taken into account the concerns of local residents regarding the effect of the proposed development on refuse collection arrangements. In this regard, I note that there is some degree of discrepancy between the appellant and local residents regarding the use of Howard Street for access by refuse collection vehicles. However, I do not consider that the proposed development would have any material effect on the manner in which refuse collection vehicles use Howard Street that would constitute a material consideration in my determination of this appeal.
35. I have some sympathy with the appellant's view that there has been a degree of inconsistency in the views provided by the Council's Conservation Officers. In particular, I recognise that the design of the proposed development has sought to reflect the detailed pre-application advice provided by the Council on 16 June 2017. There is a degree of professional expectation in the planning system that advice provided, and decisions made, should be undertaken in a manner that provides a degree of consistency irrespective of whether this is supportive or otherwise of the development proposed.
36. In this case I have no evidence to indicate any material change in circumstances from the detailed pre-application advice provided in 2017 to the views expressed by the Council in this appeal. I recognise that such conflicting advice and views can understandably be seen as being inconsistent.

However, the fact that the appellant may have followed the pre-application advice provided in the planning application carries no weight in my determination of this appeal which I have considered with due regard to the Council's reasons for refusal and concerns expressed by interested parties.

37. I have also taken into account the concerns of local residents regarding the potential overdevelopment of the site and the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to overshadowing, noise and loss of privacy. Although the above matters have been carefully noted, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.

Conclusion

38. I have found that the proposed development would preserve the character and appearance of the nearby Fulford Road Conservation Area. In addition, the proposal would not have an unacceptable detrimental impact on highway or pedestrian safety. However, these matters do not outweigh my findings that the proposal would have an unacceptable impact on the character and appearance of this part of Howard Street. For the above reasons, taking into account the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR