



Appeal Decision

Site visit made on 8 September 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2021

Appeal Ref: APP/C2741/W/21/3271062

Land between 4 & 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 Mr Michael Hammill (Project 2017 Ltd) against the decision of City of York Council.
 - The application Ref 20/02188/FUL, dated 10 November 2020, was refused by notice dated 22 January 2021.
 - The development proposed is described on the application form 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 City of York Council does not at this moment in time have a formally adopted statutory development plan. In their evidence the Council refer to Policy D1 of the City of York Publication Draft Local Plan 2018 (PDLP), which was submitted for examination on 25 May 2018. However, this emerging plan has not yet been examined and found sound. I also have no evidence before me to indicate the extent of any unresolved objections to the relevant draft emerging policies contained therein or their degree of consistency with the National Planning Policy Framework (the Framework). Consequently, and given its stage of preparation, and bearing in mind paragraph 48 of the Framework I afford moderate weight to emerging Policy D1.
3. In their statement the Council have indicated that they have withdrawn their second reason for refusal. As a result, I have not considered or referred to the impact of the proposal on any potential non-designated heritage assets.
4. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, as the main parties have had an opportunity to comment on this matter, I am satisfied that neither party has been prejudiced in this regard.
5. The Council have described the development as 'Erection of one bedroom duplex flat above existing access way between No. 4 and No.6 Howard Street (resubmission, revised scheme)'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issue

6. In light of the above the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is within a gap between nos. 4 and 6 Howard Street which are two storey terraced dwellings of a Victorian form, design and style having a traditional material exterior finish. The proposed dwelling would be located within the gap between nos. 4 and 6 Howard Street at first floor level with vehicular access to the dwellings behind the terrace being maintained. I consider that the traditional Victorian design, form, and external material finish of the existing dwellings on the street collectively make a significant positive visual contribution to the character and appearance of the area.
8. The proposal's design would be highly contemporary having an exposed steel frame and large glazing panels for its fenestrations to the front and rear. The other rear windows on the rear elevation would be circular resembling the portholes of a ship. In addition, the roof levels would be lower meaning that it would look out of place and not be in keeping with the prevailing character of the area. Indeed, almost the entirety of the proposal's front elevation would comprise glazing panels which would be completely at odds with the existing predominant visual form of the street.
9. Consequently, and given the traditional designs, forms, styles, and material external finishes of the existing buildings on the street I consider that the bulkier and highly contemporary nature, design, form, style, and material external finish of the proposal would represent a discordant addition to the street scene thereby having a significant adverse visual impact.
10. I note the appellant's point that a proposal of a contemporary idiom that would maintain a vehicular access at ground floor level would potentially be acceptable as per previous advice given by the Council's conservation officer. However, to my mind a contemporary designed proposal in this location would need to reflect the established vernacular architectural style at least to some degree thereby complementing it, which by virtue of its wholly different style the proposal would not.
11. The appellant has also cited the facts: that the proposal is of an innovative high-quality design that would create natural surveillance of the street, rear ginnel, and passageway; and that it would appear subservient to the prevailing Victorian streetscape. However, while it may well represent an innovative design and appear subservient, for similar reasons to the above I consider that it would not represent high-quality design set within its local context.
12. I therefore conclude that the proposed development would materially harm the character and appearance of the area in conflict with policy D1 of the PDL. It would also conflict with paragraphs 126 and 130 of the Framework.

Other considerations

13. Turning to the benefits, the proposed development would potentially provide one additional dwelling and a social benefit. There would also be some economic investment from both its construction and subsequent occupation. In addition, given its location its future occupiers would be likely to be able to access services and facilities, such as open spaces, by means other than the private car which would be an environmental benefit. The energy efficient nature of the proposal's

design would also provide an environmental benefit. However, given the scale of the proposal I afford these benefits limited weight.

14. In support of the proposal the appellant has cited a previous appeal decision (Ref: APP/C2741/W/20/3264092) highlighting that this means that the only concerns the Inspector had were the proposed fenestration and dormer roof extension. However, in paragraph 22 it is stated 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'* which is not necessarily the same as concern only being expressed about two specific aspects of its overall design in isolation. In any event I have determined the appeal scheme before me on its own merits. As a result, I afford this consideration little weight.
15. In their final comments the appellant states that a subsequent proposal with a more traditional design has been approved by the Local Planning Authority something which they also confirm in their statement. They go on to say that they would prefer to implement the appeal scheme before me as it is more eco-friendly and carbon neutral. However, I do not have all the details of this scheme before me so I cannot be certain that this would be the case. In any event I have already noted that the energy efficient nature of the proposal's design would provide a limited environmental benefit and determined it on its own merits. As a result, I afford this consideration little weight.

Planning Balance

16. According to the appellant's evidence the Council cannot demonstrate a 5-year supply of deliverable housing land for the area something which the Council have not disputed. Consequently, even though I have no evidence before me to indicate the extent of this shortfall it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing one additional dwelling to assist the Council in addressing its undersupply as set out in Paragraph 11 of the Framework.
17. In relation to the adverse impact of the proposal, it would substantially harm the character and appearance of the area in conflict with Policy D1 of the PDL. It would also conflict with paragraphs 126 and 130 of the Framework.
18. With regards to the potential benefits of the proposal, it would provide social, economic, and environmental benefits carrying limited weight in favour of the appeal scheme. However, given the conflict with the development plan and those policies of the Framework identified above I find that the proposal therefore cannot be considered sustainable development in accordance with paragraph 11 of the Framework. Therefore, within the context of paragraph 11 of the Framework, given the substantial harm I have identified, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, including its presumption in favour of sustainable development.

Conclusion

19. The proposal would not accord with the development plan and the Framework when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within them. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne INSPECTOR