

Appeal Decisions

Site visit made on 1 November 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal A Ref: APP/C2741/W/21/3277088

5 Peckitt Street, York YO1 9SF

- 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 T J Mudd against the decision of the City of York Council.
 - The application Ref 19/01454/FUL, dated 5 July 2019, was refused by notice dated 23 February 2021.
 - The development proposed is described as a change of use from office to residential, part removal and rebuild of existing substandard rear kitchen, installation of dormer to rear roof plane and internal alterations.
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Appeal B Ref: APP/C2741/Y/21/3277090

5 Peckitt Street, York YO1 9SF

- 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 T J Mudd against the decision of the City of York Council.
 - The application Ref 19/01455/LBC, dated 5 July 2019, was refused by notice dated 23 February 2021.
 - The works proposed are described as a change of use from office to residential, part removal and rebuild of existing substandard rear kitchen, installation of dormer to rear roof plane and internal alterations.
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Decisions

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. As part of their appeal submission, the appellant has provided a revised drawing¹ with an alternative design for the proposed rear facing dormer window. However, the appeal process should not be used to evolve a scheme to overcome the Local Planning Authority's (LPA) reasons for refusal and instead a fresh planning application should usually be made².
4. Furthermore, in considering whether to accept this amended plan I have had regard to the 'Wheatcroft Principles'³. That is to say, if I were to accept the revised drawing, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation. In this case, it is my view that to accept the revised drawing would prejudice the interests of the LPA, interested parties and statutory consultees, who have not had an opportunity to comment on the revised drawing and may have

¹ Drawing No. 994.002 Rev G

² Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

³ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37]

observations to make. I have therefore considered the appeal on the basis of the plans and drawings that were before the LPA when it made its decision.

5. The Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021, and this post-dates the Council's decision notice. However, the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal. I have therefore had regard to the revised Framework in my decision.

Main Issues

6. The main issues in both appeals are whether the proposal would preserve Numbers 1-7 Peckitt Street, a Grade II listed building, and any features of special interest that it possesses and, linked to that, whether the proposal would preserve or enhance the character or appearance of the Central Historic Core Conservation Area.

Reasons

Special interest and significance

7. Dating from circa 1840-1860, No. 5 Peckitt Street is a three storey mid-terrace townhouse which stands as part of a wider terrace of seven buildings, and listed Grade II as a group. The property is currently used as the office of a Chartered Surveyor.
8. The significance of the listed building, in terms of its special architectural and historic interest, is principally derived from its age, character and well-preserved appearance as an early-Victorian townhouse, illustrative of middle-class housing and the development of York in the mid-19th century, as well as internal and external features of interest. This includes the composition of its built form and internal layout which remains legible, along with historic joinery and plasterwork which reflect the hierarchy of its internal spaces.
9. The single storey kitchen range and outbuildings to the rear of No.5 are thought to be original to the property and therefore make a positive contribution to the significance of the building, providing an historical narrative of how the property was lived in and developed. To my mind, the fact that neighbouring properties have been subject to large rear extensions, which detract from their historical interest, makes the existing kitchen and range of outbuildings at No.5 even more significant in heritage terms.
10. The appeal property falls within the Central Historic Core Conservation Area, which contains the highest concentration of listed buildings in the city, including remnants of the city's Roman, Viking and Medieval past. Accordingly, the appeal property, being a listed building of mid-19th century origin and illustrative of the residential development of this part of the city, makes a significant positive contribution to the character and appearance of the conservation area.

The appeal proposal

11. The appeal seeks planning permission and listed building consent to convert the building back into a residential property. The proposal includes a number of items including: installation of dormer to rear roof slope; part removal and rebuilding of rear kitchen and outbuildings; reinstating entrance hall on the ground floor by building up a section of wall with single door to the front room; doorway between front and rear facing rooms on the ground floor to be widened to a double door;

first floor wc/shower room to be re-configured as a bathroom; second floor attic room to be refitted as a en-suite with existing door blocked up and reposition to provide access from adjacent bedroom; and the removal of soil/vent stack and a uPVC extraction vent cowl to be removed from the principal elevation.

The effect of the proposed works

12. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest it possesses. Section 72(1) of the Act also requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. I have therefore considered the appeal proposal in light of these important statutory duties.
13. The removal of the historic kitchen range and partial removal of some of the historic outbuildings would result in the loss of features of special interest which contribute to the overall significance of the listed building. This would result in clear harm to the heritage asset.
14. The proposed replacement kitchen extension would be of a greater height and width and constructed in matching materials. While the extension would maintain a subservient relationship with the host building, the increased scale and massing would be conspicuous and would partially obscure a rear facing sliding sash window. In doing so, the proposal would appear as a discordant addition to the building that would overcrowd its rear elevation, thereby diminishing its significance. In particular, the introduction of steps and railings in such close proximity to the ground floor window would clutter the rear elevation and detract from an architectural feature of significance.
15. My findings in this regard are consistent with that of the appellant's own Heritage Assessment⁴, which considers that this element of the proposal would result in less than substantial harm to the listed building. I note the appellant's assertion that the development would not be apparent in any public views. However, listed buildings are protected for their inherent qualities, irrespective of whether or not they are visible to the public.
16. The proposed dormer window to the rear roof slope would have a somewhat clumsy appearance owing to its oversized guttering, heavy barge board detailing and overly large eaves. This would be at odds with the simpler character of the property. The dormer would be apparent in a number of views from neighbouring properties to the rear of the building and therefore it would also result in a degree of harm to the character and appearance of the conservation area. Furthermore, it would be unacceptable to leave this matter to be controlled by the imposition of a planning condition as it would, to an extent, nullify the permission.
17. The internal works would largely reinstate the historic plan form of the building and therefore they would amount to a heritage benefit. I note the LPA's concerns regarding the details of the proposed double doors on the ground floor and the loss of a door on the second floor. However, I am satisfied that, in the event that the appeal was to succeed, these are minor matters that could be dealt with via the imposition of a condition to curtail specific elements of the works until further details were subsequently approved.

⁴ Appeal Statement – Heritage by Woodhall Planning & Conservation, Dated March 2021

18. For the above reasons, the proposal would fail to preserve Numbers 1-7 Peckitt Street, a Grade II listed building, and its features of special interest. In addition, it would neither preserve nor enhance the character or appearance of the Central Historic Core Conservation Area. Accordingly, the proposal would not meet the statutory duties required by the Act and would be contrary to Policies D4, D5 and D11 of the City of York Local Plan Publication Draft 2018 and Policies GP1 and HE2 of the City of York Draft Development Control Local Plan 2005. Together, among other things, these policies seek to preserve or enhance the significance of designated heritage assets through high quality design that respects or enhances the historic environment.
19. Despite these planning documents being in draft form and therefore not being part of a formally adopted development plan, these policy objectives are consistent with policies set out in the Framework, and therefore carry significant weight. Specifically, I find conflict with the policies set out in sections 12 and 16 of the Framework which seek to achieve well-designed places and the conservation and enhancement of the historic environment.

Other Matters

20. The appeal site is located within Flood Zone 3, an area at high risk from flooding. The appellant suggests that the proposed rear extension is required to protect against flooding and improve the overall thermal efficiency of the property in its intended use as a dwelling. A Building Appraisal⁵ has been submitted and which highlights penetrating damp and condensation within the kitchen area, and some evidence of structural movement due to periodic flooding and shallow foundations. Some of these problems appear to stem from poor maintenance, including the use of cement-based mortar that has reduced the building's ability to 'breathe'.
21. Paragraph 200 of the Framework advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. I acknowledge that the appellant's Building Appraisal has highlighted some deficiencies in the existing kitchen extension, but the report is limited in its scope and there is little evidence that the identified deficiencies could not be adequately addressed by a comprehensive scheme of repairs by a suitably qualified conservation specialist. Consequently, I am not convinced that these matters provide a clear justification for the partial demolition of the kitchen and outbuildings and their replacement with a larger structure.

Planning Balance

22. The Framework, at paragraph 202, states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
23. For the reasons set out above, the proposal would cause less than substantial harm to both the listed building and the conservation area. Notwithstanding this, the Framework is clear that great weight should be given to the asset's conservation irrespective of the level of harm identified.
24. Benefits of the proposal include the removal of the soil vent pipe and uPVC vent from the principal elevation and also internal works that would partially reinstate the building's historic plan form. The proposal would also result in a more thermally efficient and flood resilient property. It is also suggested that the

⁵ Building Appraisal for 5 Peckitte St, York by Lightly & Lightly Surveys LHL Group, dated 30 April 2019

proposal helps to secure the optimum viable use of the property. However, these benefits are limited in scale, and no evidence has been presented to suggest that the property would become vacant in the event that the appeal scheme was not implemented. It has not therefore been demonstrated that the proposal would represent the optimum viable use of the building. Furthermore, there is little evidence to suggest that flood risk is a significant impediment to the existing or future use of the building.

25. Accordingly, these public benefits would not tip the balance in favour of the appeal scheme when set against the great weight and importance that I attach to the harm that the proposal would cause to the special interest of the listed building and the conservation area. For this reason, the proposal would conflict with the Framework's aim to conserve heritage assets in a manner appropriate to their significance.

Conclusion

26. I have found that the appeal proposal would fail to preserve the listed building and its features of historic and architectural interest; it would neither preserve nor enhance the character or appearance of the conservation area; would not accord with the Framework; and would conflict with local planning policies.
27. Consequently, for the reasons given, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

J M Tweddle

INSPECTOR