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## Appeal Decisions

Site visit made on 8 February 2022

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 February 2022**

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### **Appeal A Ref: APP/N4720/W/21/3275860**

#### **Otley Lodge, Farnley Lane, Otley LS21 2BD**

- 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 David Thackwray against the decision of Leeds City Council.
  - The application Ref: 21/00555/FU, dated 19 January 2021, was refused by notice dated 19 March 2021.
  - The development proposed is described as 'The application is to establish retrospective approval for fencing that has already been erected and also to seek approval for completion of the fencing and installation of new pedestrian access gate and sliding gate for vehicles all to the boundary of the domestic garden area of the site which was defined as such previously on 13/03/2018 by consent: 18/00192/FU. West lodge was also approved as C3 dwelling as defined by consent: 13/02307/FU.'
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### **Appeal B Ref: APP/N4720/Y/21/3275925**

#### **Otley Lodge, Farnley Lane, Otley LS21 2BD**

- 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 David Thackwray against the decision of Leeds City Council.
  - The application Ref: 21/00556/LI, dated 19 January 2021, was refused by notice dated 19 March 2021.
  - The works proposed are described as 'The application is to establish retrospective approval for fencing that has already been erected and also to seek approval for completion of the fencing and installation of new pedestrian access gate and sliding gate for vehicles all to the boundary of the domestic garden area of the site which was defined as such previously on 13/03/2018 by consent: 18/00192/FU. West lodge was also approved as C3 dwelling as defined by consent: 13/02307/FU.'
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## **Decisions**

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

## **Preliminary Matters**

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This replaced the 2019 version. My Decisions are made in the context of the revised Framework.
5. The application form states that the site address is West Lodge. However, the appeal forms and decision notices state that the site address is Otley Lodge. From the submitted evidence and my observations on site, it is clear that the

building which is the subject of the appeals is Otley Lodge. I have therefore amended the site address in the headings above and determined the appeals on this basis. I am satisfied that no parties' interests have been prejudiced by this approach.

6. When on site I observed that a timber fence has been installed which partially encloses the appeals site (the site) and I note that the applications have been submitted retrospectively. I have therefore determined the appeals on the basis that the development and works have, in part, already occurred, having regard to the plans submitted with the applications.
7. The site is located within the Otley Conservation Area (the CA). In its decision notices the Council does not explicitly refer to any effects of the proposal on the character or appearance of the CA. Nevertheless, mindful of the statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had regard to this matter in my determination of the appeals. As the effects of the proposal on the general character and appearance of the area or the CA have been addressed by the parties in their evidence, I am satisfied that their rights have not been prejudiced by me taking this approach.

### **Main Issues**

8. The main issues are whether the proposal would: i) preserve the special architectural and historic interest of the Grade II listed building and its setting; and ii) preserve or enhance the character or appearance of the Otley Conservation Area.

### **Reasons**

9. The appeals relate to Otley Lodge and the small parcel of land to its side which forms its domestic curtilage. Otley Lodge is part of a Grade II listed building known as 'West Lodge and Otley Lodge and associated walls, gate pillars and gates', which is located within the CA.

#### *Special interest and significance*

10. Dating from around the late 18th century, possibly by John Carr, Otley Lodge and West Lodge are two small square stone-built lodges, with connecting stone walls, pillars and wrought iron gates.
11. From the evidence before me, the special interest and significance of the listed building are largely derived from its historic and architectural interest. The building's age, surviving historic fabric, association with the Farnley estate and its conscious design in an elegant mirrored form, all make positive contributions in these regards. In addition, the space immediately around the listed building along with the wider parkland provide a generally open and verdant setting with which the building is visually, physically, historically and functionally associated and within which the building can be appreciated. In these regards, the listed building's setting positively contributes to its significance.
12. The site lies within Area 2 of the CA, 'Otley Riverside', which takes in the River Wharfe, the ancient bridge, long weir with mill, green space, public parks and

trees. The Lodges are referred to in the CA Character Appraisal<sup>1</sup>. The CA as a whole encompasses a large area and includes buildings, streets and spaces which vary in character, appearance and use. Its focus is the historic core of the town, but it also includes important elements of its later development, all set within a dramatic landscape. The use of a common palette of materials, including stone, slate and timber provides some uniformity to the street scene. The listed building, including Otley Lodge, makes a positive contribution to the character and appearance of the CA and thus its significance as a designated heritage asset.

### *Appeals proposal and its effects*

13. The proposal is for the enclosure of the site with a close-boarded, timber fence of about 1.8m in height and wrought iron gates which would mimic the appearance of the adjacent historic gates. This would involve the retention and regularisation of the timber fence already installed, and permission and consent for the remainder of the timber fence and wrought iron gates proposed.
14. A boundary treatment of the scale, form and dual materials as proposed would not necessarily be out of keeping in a standard domestic setting, and I note the presence of a 20th century housing estate and sub-urban features nearby. However, an enclosure of this type would not be befitting of such a sensitive heritage context.
15. The timber fence's rudimentary design, dominant solid form, substantial height and untreated appearance would cause it to harmfully detract from the aesthetic quality and charm of the listed building and undermine the generally open characteristics of its immediate and wider landscape setting. Moreover, even though the design and material of the vehicular and pedestrian gates would echo the adjacent historic gates, within this context they would be contrived and disingenuous insertions which would compete with the primacy of the historic gateway.
16. Whilst the proposal would not, of itself, significantly weaken the historical and functional associations of the listed building with the wider landscape, it would adversely alter how the building, as an architectural set-piece, is experienced and appreciated. That the proposal, as partially installed, did not require the removal of any existing boundary treatment or trees, are neutral considerations and weigh neither for nor against the appeals.
17. The existing tree coverage around the site would screen the proposal when viewed from the adjacent park. However, given the fence's height, length and form, it would be unduly conspicuous and its harmful effects would be readily perceived when viewed from the adjacent public route and car park.
18. Given the building's prominence, the detrimental effects of the proposal on its setting and thus its significance, would also have a residual and incrementally harmful effect on the character and appearance of the CA as a whole.
19. The Heritage Statement submitted with the applications states that 'none of the proposed fence or gates will touch West Lodge or the associated walls, gates and pillars that form part of the listing.' On this basis, having regard to section 7(1) of the Act, the proposal would not require listed building consent. However, the submitted plans indicate that the fence would, at the very least,

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<sup>1</sup> Otley Conservation Area Appraisal, 2003.

about the listed wall. Furthermore, I note that the appellant has not contested the need for listed building consent in his grounds of appeal. Given the potentially harmful and irreversible effects of affixing the proposed fence to the listed wall, the lack of detail on this matter is a concern and one which would not be appropriate to be left to condition. Even if I accepted that the proposed fence would not be fixed to the listed building in any way, the harm I have identified in relation to the building's setting and the CA would still occur.

20. Drawing the above together, I find that the proposal would fail to preserve the special architectural and historic interest of the Grade II listed building and its setting; and would not preserve the character or appearance of the CA. As such, it would harm the significance of these designated heritage assets.

### *Public benefits and balance*

21. Paragraph 199 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 200 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.
22. With reference to Paragraphs 201 and 202 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development and works, I find the harm to the listed building to be 'less than substantial'. However, this should not be equated with a less than substantial planning objection and is of considerable importance and weight in the planning balance of these appeals. Under such circumstances, Paragraph 202 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimum viable use of the building.
23. The fence and gates would provide a level of privacy and security that the appellant desires. Nevertheless, these benefits arising directly from the proposal would be of a private nature to the appellant and any future occupiers of the property, and would not be realised by the public at large<sup>2</sup>.
24. Additionally, I am not convinced that securing these benefits could not be achieved in a more sympathetic and less harmful way to the significance of the designated heritage assets. Moreover, there is no substantive evidence before me which confirms that the optimum viable use of the building as a residential dwelling would be at risk if the appeals were to fail and the fence and gates, as proposed, were not installed.
25. In coming to my Decisions I am mindful of the appellant's considerable investment into Otley Lodge and the meaningful heritage and public benefits generated by the building's refurbishment and reuse. Nevertheless, those benefits would have been taken into account in the determination of the acceptability of those separate schemes<sup>3</sup>, and should not be double counted in relation to this specific proposal.

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<sup>2</sup> What is meant by the term public benefits? Paragraph: 020 Reference ID: 18a-020-20190723, Planning Practice Guidance.

<sup>3</sup> 13/02308/LI Listed Building Application for alterations of gate house to create one bedroom dwelling (C3) (Approved); 13/02307/FU Change of use and alterations of gate house to create one bedroom dwelling (C3) (Approved); and 18/00192/FU Change of use of park land to form enlarged domestic garden area (Approved).

26. In the above respects, clear and convincing justification for the proposal has not been provided. In giving considerable importance and weight to the harm to the significance of the designated heritage assets, I find that this would not be outweighed by the public benefits arising from the proposal.
27. I conclude that the proposal would not preserve the special architectural and historic interest of the Grade II listed building and its setting; and would not preserve the character or appearance of the Otley Conservation Area. As such, it would fail to satisfy the requirements of sections 16(2), 66(1) and 72(1) of the Act and Paragraphs 197, 199 and 200 of the Framework.
28. It would also conflict with Policies P10 and P11 of the Leeds Core Strategy, as amended, 2019; saved Policies GP5 and N16 of the Leeds Unitary Development Plan, 2006; Policies BE6 and BE9 of the Otley Neighbourhood Plan, 2020; and the Otley Conservation Area Appraisal. Together these policies and guidance seek development and works to be of a high quality design appropriate to its context; conserve and enhance the historic environment; resolve detailed planning considerations including design; relate sensitively to the original building; respond positively to, respect and enhance the special historic character of Otley Riverside Local Heritage Area; ensure new boundary treatments preserve and enhance the special character of the CA; and take account of the historical Queen Anne lodges, walls and gateposts.

## Conclusions

29. **Appeal A:** The proposed development would conflict with the development plan. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
30. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

*F Cullen*

INSPECTOR