



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: 28 February 2022

Appeal A Ref: APP/E2734/W/21/3288393

23 Castlegate, Knaresborough HG5 8AR

- 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 & Mrs S Colgan against the decision of Harrogate Borough Council.
 - The application Ref: 21/00807/FUL, dated 28 February 2021, was refused by notice dated 17 June 2021.
 - The development proposed is raised decking area and access stairs including forming opening in existing garden wall.
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Appeal B Ref: APP/E2734/Y/21/3288400

23 Castlegate, Knaresborough HG5 8AR

- 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 & Mrs S Colgan against the decision of Harrogate Borough Council.
 - The application Ref: 21/00808/LB, dated 28 February 2021, was refused by notice dated 17 June 2021.
 - The works proposed are raised decking area and access stairs including forming opening in existing garden wall.
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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. There is a discrepancy between the site address as stated in the application form and as stated in the appeal forms. From the evidence before me, the site address as stated in the application form is correct and the one used in the appeal forms is the appellants' address and, as such, an error. I have therefore used the site address as stated in the application form in the headings above.
6. The description of development and works set out in the headings above is taken from the application form. However, the description used in the Council's decision notices and the appellants' appeal forms more accurately captures the

scope of the proposed development and works. I have therefore determined the appeals on the basis that the proposal comprises 'Raised decking area and railings to first floor. Formation of opening to existing garden wall for erection of access stairs to first floor. Erection of trellis screening and posts to ground floor.' As the effects of these elements of the proposal have been addressed by both parties in their respective evidence, I am satisfied that their rights have not been prejudiced by me taking this approach.

Main Issues

7. A main issue in Appeal A and the main issue in Appeal B is:

- Whether the proposal would: i) preserve the special architectural and historic interest of the Grade II listed building; and ii) preserve or enhance the character or appearance of the Knaresborough Conservation Area.

8. An additional main issue in Appeal A is:

- The effect of the proposal on the living conditions of nearby residents, with regard to privacy, noise and disturbance.

Reasons

Special interest and significance

9. No 23 Castlegate (No 23) is a Grade II listed building, named in the National Heritage List for England as Castle Vaults, 23 Castlegate¹. It dates from the mid-18th century, with what is thought to be a late 19th century bay extension to the side and 20th century alterations and additions. It is four storeys, one bay wide facing the Market Place and two bays deep to Castlegate with a rendered finish, massive quoins and a slate roof.
10. From the evidence available to me, the special interest and significance of No 23 are largely derived from a combination of its historic interest and architectural interest. The building's age; surviving historic fabric and features; striking form and design; and use of traditional materials all make important contributions in these regards. The building's significance is augmented by its continued use as a public house and its role as part of the cherished local scene in the collective memory of the local community. The immediate setting of No 23, comprising the tight-knit urban townscape at the front and the more spacious area of a car park and route to the Castle at the rear, allows the building to be experienced and appreciated and thus also positively contributes to its significance.
11. No 23 occupies a highly prominent position on the corner of Castlegate and Market Place, within sub area C – 'Town Centre and York Place' of the Knaresborough Conservation Area (the CA)². The CA covers a large area, focused on the historic core of the Town, but also including surrounding later development. The CA's special interest and significance are, in part, derived from the preservation of its historic street pattern along with the architectural richness and variety of its historic buildings, which stem from its complex history. No 23, as an important built component of the townscape within the CA, positively contributes to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.

¹ Castle Vaults (formerly listed as Castle Hotel), 23 Castlegate List Entry Number: 1149892.

² Knaresborough Conservation Area Character Appraisal, 2008.

Appeals proposal and effects

12. The proposal is for the erection of a steel frame to support an external decking area which would be enclosed by black metal railings. This would 'float' over the 20th century, single-storey, flat-roofed side extensions and the existing small external seating area. Access to the decking area would be gained via the existing garden space, requiring the creation of a new opening in an existing wall, and a black metal external stairway that would be screened by a tall trellis.
13. The positioning of the decking area over the later insignificant extensions, the installation of the metal frame support and the creation of an access to it, would not involve the loss of, or interventions into, any historic fabric or features of interest. However, it would result in the introduction of a substantial modern structure at first floor level which would jar with the traditional character of No 23. This, when combined with the accoutrements and activity associated with the space's intended use, would compete with the primacy of the host building and detract from its heritage merit. In addition, the access staircase would contribute to the overall bulk of the new structure and would not be adequately concealed by the proposed trellis screen.
14. Whilst metal railings are a traditional form of boundary treatment in the locale, in the context of enclosing a large contemporary decking area at first floor level, their use would result in an uncomfortable and incompatible mix of styles. I note the appellants' reference to other high-level metal balustrades in the Town³. Nonetheless, the examples cited are of a size and form which are not comparable to the proposal before me and so carry little weight in support of the appeals.
15. Given No 23's prominent location, the same factors outlined above would also cause the proposal and its use to be unduly conspicuous and, in all likelihood, uncharacteristically audible, when viewed and heard from adjacent public routes, highlighting its incongruity within the street scene. In these respects and notwithstanding the CA's varied character and appearance, the proposal would detrimentally change how this part of the Town is experienced and would undermine the positive attributes of the CA as a whole.
16. I acknowledge that the external gathering of customers at places such as street cafés can provide animation and vibrancy to a street scene, positively contributing to an area's character and sense of place. However, the proposal before me is a wholly different offer in form and nature and would not be 'an appropriate innovation or change'⁴ in such a sensitive context.
17. 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 would not preserve or enhance the character or appearance of the CA. In doing so it would harm the significance of these designated heritage assets.

Public benefits, balance and conclusion on the first main issue

18. 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

³ Old Town Hall, Market Place the Commercial Hotel Public House, High Street.

⁴ National Planning Policy Framework, Paragraph 130.

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.

19. 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 be 'less than substantial'. 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.
20. The appellants submit that the proposal would provide a vital element of outdoor seating which has become essential since the outbreak of the Covid-19 pandemic. Moreover, that whilst restrictions may gradually ease in the future, they anticipate that the high demand for outside seating will remain. They assert that the proposal would increase the viability and ensure the profitability of the pub, as well as maintain its positive contribution to the local community and economy.
21. Although some of these outcomes would be of direct private benefit to the appellants, they would also provide tangible social and economic benefits to Knaresborough and its community⁵. These meaningful public benefits carry moderate weight in favour of the appeals. However, although the harm in this instance may be considered 'less than substantial', this should not be equated with a less than substantial planning objection and is of considerable importance and weight.
22. I am mindful of the far-reaching effects of the pandemic on the hospitality sector and acknowledge that No 23's current outdoor seating arrangements are not ideal in terms of extent or location. I have also had regard to the comments made by the Georgian Group and York Georgian Society about the importance of taking a pragmatic approach in assessing the proposal; Paragraph 208 of the Framework concerning enabling development; and Policy HP8 of the Harrogate District Local Plan 2014-2035, adopted March 2020 (the HDLP) which concerns the 'Protection and Enhancement of Community Facilities', including public houses.
23. However, no substantive evidence has been submitted which categorically confirms that the building's physical fabric or its optimum viable use as a pub are 'at risk', and that the development and works, as proposed, are fundamentally necessary to secure its long term future. In these respects, I find that the reference to enabling development is not pertinent to the appeals before me. In addition, the support for the protection and enhancement of community facilities requires development not to cause unacceptable adverse impacts on the amenities of neighbouring occupiers, which I have found not to be the case in this instance.
24. Even if I accepted that the proposal is vital to secure the building's use as a pub, there is limited value in doing so if it would compromise the listed building's and CA's special interest to an unacceptable degree and would not conserve them in a manner appropriate to their significance.

⁵ What is meant by the term public benefits? Paragraph: 020 Reference ID: 18a-020-20190723, Planning Practice Guidance.

25. In the above respects, clear and convincing justification for the proposal has not been provided. Whilst I give moderate weight to the public benefits which would accrue from the proposal, these are not sufficient to outweigh the considerable importance and weight I give to the harm to the significance of the designated heritage assets.
26. Accordingly, I conclude that the proposal would not preserve the special architectural and historic interest of the Grade II listed building. Nor would it preserve or enhance the character or appearance of the CA. In these respects, it would fail to satisfy the requirements of sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraphs 197, 199 and 200 of the Framework. It would also conflict with Policies HP2 and HP3 of the HDLP which seek development and works to protect and where appropriate enhance heritage assets and their settings; and be of a high quality design that protects, enhances or reinforces those characteristics, qualities and features that contribute to local distinctiveness.
27. In its delegated report but not its decision notices the Council also cites conflict with Policy HS8 of the HDLP. However, as this policy relates to 'Extensions to Dwellings', it is not applicable to the appeals before me.

Living conditions of nearby residents

28. No 23 is sited within the vicinity of residential properties. The closest, located immediately at the rear of the pub, is The Old Dispensary at 8 Castle Yard (No 8). This dwelling possesses a generous garden at the front that is bordered by metal railings and which is stated to be the main outdoor amenity space serving the building.
29. The generally open nature of the garden at the front of No 8 tempers the level of privacy which can be achieved within this outdoor amenity space. Moreover, given the central location of the property within the Town, it is reasonable for any occupiers to expect a higher level of activity and ambient noise in comparison to more suburban or rural areas.
30. Nevertheless, the elevated position and open nature of the proposed decking area in such close proximity to No 8, would be highly likely to give rise to an increased level of overlooking into parts of the garden and a consequent reduction in the level of privacy currently experienced by the occupiers of the property when using this space. This would not be sufficiently mitigated by the existing tree cover within the garden of No 8. In addition, the activity generated by the use of a decking area of the size and form proposed would be highly likely to result in an increased intensity of noise and disturbance.
31. These effects would materially harm the living conditions of the residents of No 8 and severely diminish the use and enjoyment of the property as their home. I note that the proposed use of the decking area would be seated and table service only, have no external music and a low level of lighting and have restricted hours of use; all of which could be secured by appropriately worded conditions which the appellant is willing to accept. However, I am not persuaded that these would be sufficient to moderate the identified harmful effects to a satisfactory degree.
32. I have had regard to the recommendation by the Environmental Health officer relating to the inclusion of acoustic barriers at first floor and ground floor, and I

note the appellants' acceptance that this matter could be conditioned were the appeals to be allowed. However, whilst acoustic barriers may address the effects of the proposal in relation to the living conditions of nearby residents, it is possible that they would give rise to additional harm to the significance of the designated heritage assets. As such, it would not be appropriate for this detail to be left to condition. In any event, given my conclusion on the first main issue, this matter is not determinative.

33. I am mindful that there is an existing outdoor courtyard in close proximity to No 8. However, this is a much smaller space and is able to accommodate far fewer people than the decking area proposed. More importantly, it is at ground floor level and partially enclosed by walls. As such, its effects in terms of the generation of noise and disturbance is likely to be far less than the proposal before me.
34. I conclude that the proposal would have a harmful effect on the living conditions of nearby residents, having regard to privacy, noise and disturbance. On this basis it would conflict with Policy HP4 of the HDLP in so far as it requires development not to result in significant adverse impacts on the amenity of occupiers and neighbours. For similar reasons, I find it would conflict with Policy HP8 of the HDLP which is cited by the appellants.
35. Similar to the reasons given in my conclusion on the first main issue, I find that Policy HS8 is not applicable to the appeals before me.

Other Matters

36. I note that, subject to the inclusion of conditions, Knaresborough Town Council raised no objection to the proposal, and I am cognisant of the comments submitted by the Georgian Group and York Georgian Society. However, I have considered the proposal before me on its own merits and the specific context of the site. In doing so, I have found harm to both the significance of the designated heritage assets and to the living conditions of neighbours. These would not be outweighed by the public benefits generated by the proposal and/or would not be sufficiently mitigated by conditions.
37. I note the representations made by an interested party in relation to the pub's current licence regarding the use of any outdoor beer garden, the safety issues associated with the proposed decking area, and the potential for increased littering. However, these matters, of themselves, are not ones for my consideration in the context of the appeals before me.

Conclusions

38. **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.
39. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

F Cullen

INSPECTOR