



---

## Appeal Decisions

Site visit made on 18 January 2023

**by E Worthington BA (Hons) MTP MUED MRTPI IHBC**

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

**Decision date: 2<sup>nd</sup> March 2023**

---

### **Appeal A: APP/C2741/W/22/3304727**

#### **20 Castlegate, York, YO1 9RP**

- 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 Barry Crux against the decision of City of York Council.
  - The application Ref 20/01406/FUL, dated 31 July 2020, was refused by notice dated 25 February 2022.
  - The development proposed is described as 'third floor roof extension and conversion of first and second floors of office building to residential'.
- 

### **Appeal B: APP/C2741/Y/22/3304726**

#### **20 Castlegate, York, YO1 9RP**

- 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 Barry Crux against the decision of City of York Council.
  - The application Ref 20/01407/LBC, dated 31 July 2020, was refused by notice dated 25 February 2022.
  - The works proposed are described as 'third floor roof extension and conversion of first and second floors of office building to residential'.
- 

## **Decisions**

### **Appeal A**

1. The appeal is allowed and planning permission is granted for 'third floor roof extension and conversion of first and second floors of office building to residential' at 20 Castlegate, York, YO1 9RP in accordance with the terms of the application Ref 20/01406/FUL, dated 31 July 2020, subject to the conditions set out in Annex A.

### **Appeal B**

2. The appeal is allowed and listed building consent is granted for 'third floor roof extension and conversion of first and second floors of office building to residential' at 20 Castlegate, York, YO1 9RP in accordance with the terms of the application Ref 20/01407/LBC, dated 31 July 2020, and the plans submitted with it, subject to the conditions set out in Annex A.

## **Procedural Matters**

3. Since the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
-

## **Main Issues**

4. The main issues are: whether the proposal would preserve a Grade II listed building, Number 20 and wall attached to south west corner, 20 Castlegate (Ref: 1259336) and any of the features of special architectural or historic interest that it possesses; and whether it would preserve or enhance the character or appearance of the York Central Historic Core Conservation Area; and whether it would preserve the settings of nearby listing buildings.

## **Reasons**

*The listed building, the conservation area and the setting of nearby listed buildings*

5. The appeal building is a striking early 19<sup>th</sup> century orange brick building, built over three storeys in three bays with a shopfront at ground floor level. It has a flat roof concealed behind a parapet wall, but historically had an attic storey with a gambrel roof and three dormers facing Castlegate. This is thought to have been removed in the mid 20<sup>th</sup> century.
6. To the rear is an 18<sup>th</sup> century three storey brick house (formerly No 22) which has been amalgamated with No 20 and makes up the rear section of the building. Internally, the upper levels of this rear wing do not align with the front part of the building which has led to split level doorways and landings. The listing description confirms that the building was formerly known as Nos 20 and 22 Castlegate.
7. Despite these alterations, the listed building retains its appearance as a grand Georgian town house of some standing. It is taller than the adjacent buildings and prominent in the street scene with a commanding presence that tells of the prosperity of York in the early 19<sup>th</sup> century. Internally, there is a hierarchy of rooms with the most important ones being at the front of the building on the first floor. This is reflected in the building's fenestration pattern to its front elevation. The building also displays some attractive internal architectural decoration and features particularly in the main rooms.
8. Given the above, I find the special interest of the listed building, insofar as it relates to these appeals, to comprise its elegant proportions and pleasing symmetry, along with its historic fabric and distinctive architectural features. It is also derived from its internal layout, grand front facing rooms, and interesting internal architectural features all of which are commensurate with its role and status as a fine Georgian house.
9. The appeal building is in the Central Historic Core Conservation Area, and within Character Area 12 Kings Staith and Coppergate Centre. Characterised by brick buildings and including the impressive Grade I listed Church of St Mary which has a striking presence opposite the appeal building. Its historic and architectural significance is derived from York's long history as a settlement.
10. Prior to the building of Clifford Street in 1881, Castlegate was a main route into York's central area. Its genteel character has been maintained by the lack of traffic and the survival of the fine architecture of the 18<sup>th</sup> and 19<sup>th</sup> century buildings. These provide a pleasing rhythm and variety along its relatively short and slightly curved length. The appeal building is prominent as one of the taller Georgian buildings in Castlegate. As such, it contributes positively to the character and appearance of the conservation area and its significance as a heritage asset in relation to these appeals.

11. Turning to the nearby listed buildings, the appeal building is adjacent to the Grade II listed buildings at Friargate House, 12, 14 and 16 Castlegate (Ref 1259334) and 18 Castlegate (Ref 1259335). Friargate House is a terrace of three houses now in flats which date to the early 18<sup>th</sup> and early 19<sup>th</sup> century and are built in pink-orange brick over three storeys. No 18 similarly dates to the 18<sup>th</sup> century but has earlier origins with the historic timber framed building now encased in brick. It is also built in three bays over three storeys.
12. Together with the appeal building this collection of attractive historic Georgian buildings in the core of the city are recognised for their group value. They face onto the former Church of St Mary. This impressive Grade I listed former parish church (now an exhibition centre identified in the listing description as The York Story, Castlegate Ref 1259342) incorporates remnants of an early 11<sup>th</sup> century nave, north arcades of the 12<sup>th</sup> and 14<sup>th</sup> centuries and a south arcade from the early 13<sup>th</sup> century. Built of magnesium limestone incorporating gritstone, it has an imposing west tower and spire.
13. Despite their different ages, and accepting that they all have their own particular features of interest and significance, there is a cohesiveness to this concentration of city centre buildings. Their significance, insofar as relating to these appeals, is derived from their historic interest, traditional appearance and relationship with each other in the townscape which collectively provide evidence of the role of York and its historic development. The settings of these buildings, and the contribution they make to the significance of those assets, insofar as they relate to these appeals, is derived from the traditional historic townscape of this part of York.
14. The National Planning Policy Framework (The Framework) defines setting as the surroundings in which a heritage asset is experienced. The collection of listed buildings described are close to the appeal building. Friargate House and No 18 adjoin it in the same immediate row, and the church is directly opposite. This being so, there is considerable inter-visibility between the nearby listed buildings and the appeal building, and contextual views of the nearby listed buildings include the appeal building.
15. I find that the settings of these buildings, insofar as they relate to these appeals, to be primarily associated with the historic importance of the townscape and the traditional buildings that it consists of. This contributes positively to their understanding and the special interest and significance of those buildings along with the ability to appreciate them. I have also had special regard to this matter in considering the appeals.

*The proposed development and works*

Roof extension

16. The proposal seeks alterations to the first and second floors of the building to facilitate a change of use from offices to residential and the creation of two apartments. It also includes a roof extension to provide a third apartment with dormers to the front and rear, as well as a rear balcony. This would see the re-instatement of a tiled gambrel roof to the building which is based on historic evidence of the existence of a previous attic storey there. The distinctive historic gable walls and chimney stacks would also be re-built.

17. The Council raises no objections to the roof extension in principle, and accepts that it would echo the building's former attic storey. However, it is concerned about its rear elevation where two dormers would be provided. These are larger and more contemporary in design than the three traditional dormers proposed to the extension's front elevation. They would rise vertically and would not follow the sloping line of the roof. They would also include large single panes of undivided glazing. This is particularly so in the case of the dormer to the right hand side when viewed from the rear which incorporates two large glazed doors.
18. That said, the rear dormers are intended to read as modern interventions. They would not be unduly large or bulky and would allow a good deal of the tiling on the rear roof to be appreciated. The fenestration proposed would have a generally vertical emphasis which would not appear unduly at odds with the form and arrangement of the windows on the building's rear elevation below.
19. Whilst I note the Council's concern regarding the colour and appearance of the dormers' proposed cladding against the building's brickwork (in particular the standing seam), I am mindful that they would be clad in lead (rather than zinc as assumed by the Council). This use of lead cladding would match the front dormer, and given the relatively muted nature and colour of this traditional material I am content that it would sit comfortably in the context of the existing building and its seasoned brickwork. It would also appear sympathetic in the surrounding area where the use of lead cladding is not unusual.
20. Additionally a frameless glass balustrade would be provided to the rear balcony. This would be for the most part recessed behind the parapet wall and would only protrude slightly above it. Whilst contemporary in design and an obviously modern feature, given its limited height and lightweight appearance I am not persuaded that it would appear prominent or intrusive. Nor can I see that it would undermine the traditional appearance of the building.
21. Historic England finds the proposed roof extension to be in-keeping with the scale and proportions of the listed building and considers that it would successfully address the opportunity to reinstate the historic roof configuration and enhance the current roofscape. Additionally it considers that the form and materials proposed for the gable wall and the re-building of both chimney stacks means that the proposal responds positively to the character and significance of the building and the conservation area.
22. Taking these factors into account, I am satisfied that the proposed roof extension would not be at odds with the materials or design of the host building. I am also content that it would appear generally proportionate to the host building and would not undermine its hierarchy when seen either from front to back, or vertically within the building.
23. Thus I find that overall, the proposed roof extension would serve to reinforce the building's former grandeur and enhance its historic legibility and significance. This improvement to its appearance would also strengthen its contribution to the traditional townscape. Accordingly, as well as preserving the listed building and its features of special architectural and historic interest, the proposed roof extension would also enhance the character and appearance of the conservation area and improve how this is experienced. As a result it would also positively reinforce the settings of the nearby listed buildings.

### Internal partitions and works

24. Opaque glazed screens would be introduced to the building's first and second floor landings in order to create entrance lobbies to the proposed flats there. On the second floor a small section of existing internal wall and a door would also be removed.
25. The proposed partitions would not affect the building's primary main rooms, including those important spaces to the front of the building on the first floor. The existing landings to both the first and second floors are not particularly spacious and serve for the most part as relatively constrained functional circulation spaces. Their floor levels have also been affected by the historic amalgamation of No 20 and No 22. The loss of floorspace on the landings as a result of the partitions would not be great, and the distinctive internal features there including the staircase enclosures, curved walls and doorway arrangements with angled walls would for the most part remain visible behind the partitions.
26. Nevertheless, I accept that both landings add some interest to the building and are part of its pleasing and relatively unaltered interior. Notwithstanding their glazed nature, I find that the screens and the inevitable structural framing that they would require would divide up the landings and in practical terms reduce their extent. Whilst the hierarchy of the spaces within the building would not be unduly compromised, the screens would nevertheless adversely affect the spatial quality of the landings and erode elements of the building's historic layout. They would also detract to some limited extent from the internal architectural features there. Additionally, in removing the door and wall on the second floor, some modest amount of the building's historic fabric would be lost.
27. Thus, these elements of the proposal would to some limited extent undermine the building's historic legibility and fail to preserve its special interest. I give this harm considerable importance and weight in the balance of these appeals.

### *Heritage balance*

28. The Framework advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I find the harm to the listed building to be less than substantial in this instance, but nevertheless of considerable importance and weight. Paragraph 202 requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
29. The proposal as a whole would affect the listed building in different ways, some beneficial and some harmful. Those that would improve the heritage asset are public benefits. Whilst I have found that the introduction of the partitions would cause some harm, there are other elements of the internal works which would be beneficial to the listed building. These include the return of a residential use to the upper floors, the reintroduction of its former four storey floorplan and the reinstatement of the currently truncated internal staircase feature. These would help to better explain the building's history and so would make a positive contribution to its significance as a heritage asset.
30. Moreover, I have also found that overall the proposed roof extension would improve the listed building and contribute positively to its significance. As set

out above, in re-introducing the distinctive attic storey the proposal would see the sympathetic reinstatement of the building's former appearance and would restore its pleasing balance, proportions and hierarchy. This would serve to better reflect its former status and recover some of its lost grandeur and charm. It would therefore improve the building's historic legibility and the ability to appreciate its significance.

31. As set out above, this element of the scheme would also make a positive contribution to the character and appearance of the conservation area and improve the settings in which the nearby listed buildings are appreciated. Thus it would better affirm the significance of those heritage assets. This would accord with paragraph 206 of the Framework which requires local planning authorities to look for opportunities within conservation areas, and within the settings of heritage assets to enhance or better reveal their significance.
32. I find that these considerable public benefits alone are compelling, and in my view determinative in relation to these appeals.
33. The appellant has submitted a viability assessment which indicates that rather than being occupied by a single business, the building has been let to numerous tenants in individual rooms for a number of years, with a constant churn of tenants. Despite offering rent free holidays and rent reductions tenants have been lost in recent years leading to vacancies. The appellant indicates that the internal arrangement of the building does not meet the requirements of office users (who require open plan spaces), and it has not been possible to attract new tenants for 15 months. It is concluded anecdotally that the building is not viable either as a single office use, or by a number of users.
34. I note the Council's concerns regarding the findings of the viability assessment which considers the comparative viability of the use of the building as a single dwelling against its use as three flats. I am also mindful of the advice in the Guidance that the optimum viable use is the one likely to cause the least harm to the significance of the asset, and may not necessarily be the most economically viable one.
35. Nevertheless, the Council does not dispute the appellant's view that the current use of the building as an office is unviable, or that a residential use would be more financially attractive. The use of the building as a single dwelling house is not before me for consideration. In this context, and in the absence of any contrary evidence, I am content that in re-introducing a residential use, the proposal would help to ensure the listed building's protection and contribute to securing its future maintenance and upkeep in order to provide longevity to the heritage asset.
36. Additionally, in providing three residential units, the proposal would contribute to housing land supply. This is also a public benefit of the proposal, but given the limited number of units concerned, this would only be very modest.
37. Taking all these factors into account, I consider that the public benefits of the proposal are of such a magnitude that they would outweigh the less than substantial harm to the designated heritage asset I have identified, and the considerable importance this carries. I therefore conclude that the proposal overall would preserve the special interest of the listed building and enhance

the significance of the conservation area and the settings of the nearby listed buildings.

38. For these reasons the proposal would satisfy the requirements of the Act and paragraph 197 of the Framework. It would also support Policy D5 of the emerging Publication Draft Local Plan 2018 which is supportive of proposals where they preserve the special architectural or historic interest of listed buildings. Furthermore it would generally align with Policies GP1 and HE2 of the Development Control Local Plan 2005 which respectively require proposals to be of a design that is compatible with neighbouring buildings and the character of the area, and in conservation areas to respect adjacent buildings and be of a design that is compatible with the character of the area and neighbouring buildings.
39. The appellant refers to the Council's lack of a five year housing land supply which the Council does not dispute. In this context, given my findings above in relation to the public benefits of the proposal, the weighted balance in paragraph 11 d) ii of the Framework concerning the presumption in favour of sustainable development is also engaged. In such circumstances, this means granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. For the reasons set out above, the adverse effects of granting permission in this case would not significantly and demonstrably outweigh the benefits, and as such, permission should be granted.

### **Conclusion and Conditions**

40. For the above reasons, and taking all other matters raised into consideration, I conclude that both appeals should be allowed.
41. The Council has suggested a number of conditions which I have considered in light of the advice in the Framework which establishes that conditions should only be imposed where they are necessary, relevant to planning and to the development (or works) to be permitted, enforceable, precise and reasonable in all other respects. I have amended the wording of some of the conditions in the interests of clarity and preciseness.
42. I have imposed the standard time limit conditions in the interests of clarity. A condition is required in respect of Appeal A to specify the approved plans in the interests of certainty. Such a condition is not needed in respect of Appeal B since the formal decision above requires the works to be in accordance with the submitted plans.
43. Conditions requiring samples of materials for the external surfaces and a panel of brickwork, are required for both appeals in order to preserve the special architectural and historic interest of the building and the character and appearance of the surrounding area. For the same reasons, construction details and fully detailed drawings relating to a number of particular matters are required for both appeals. I have altered the Council's suggested wording in this regard to avoid repetition. As required by Historic England, I have also included details of the rainwater disposal from the rear elevation to the requirements of this condition.

44. In Appeal A, I have imposed a condition relating to construction management, and another condition to restrict the hours of construction works. These are required in order to protect the living conditions of nearby occupiers.
45. A condition is also needed in Appeal A in relation to noise mitigation. Since a noise assessment containing noise attenuation measures as already been provided, I have altered the wording suggested by the Council to better reflect that provided by the Council's Environmental Health Officer. This condition is imposed in order to ensure adequate living conditions for the future occupiers of the development.

*E Worthington*

INSPECTOR

## **Annex A**

### **Appeal A: APP/C2741/W/22/3304727**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

A258-MAS-XX-ZZ-DR-A-300 P1 Proposed entrance screen to first floor  
A258-MAS-XX-ZZ-DR-A-301 P1 Proposed entrance screen to second floor  
A258\_122 B PROPOSED FIRST FLOOR PLAN  
A258\_124 B PROPOSED SECOND FLOOR PLAN  
A258\_123 B PROPOSED MEZZANINE FLOOR PLAN  
A258\_125 B PROPOSED THIRD FLOOR PLAN  
A258\_126 B PROPOSED ROOF PLAN  
A258\_130 B PROPOSED NORTH EAST (FRONT) ELEVATION  
A258\_131 B PROPOSED SOUTH WEST (REAR) ELEVATION  
A258\_132 B PROPOSED SOUTH EAST (SIDE) ELEVATION  
A258\_133 B PROPOSED NORTH WEST (SIDE) ELEVATION
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a 1m x 1m panel of the brickwork demonstrating the colour, texture, bonding and mortar treatment of the development hereby permitted, has been erected on site and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved panel. The panel shall be retained on site until a minimum of 1 square metre of the brickwork of the approved development has been completed in accordance with the approved panel.
- 5) Notwithstanding the details shown on the approved plans, no development shall take place until the following construction details have been submitted to and approved in writing by the local planning authority:
  - i) fittings and partitions
  - ii) external vents and flues
  - iii) rainwater disposal from the rear elevation
  - iv) chimney stacks including pots (drawing at scale 1:20 and part cross section drawing at scale 1:5 showing band courses/mouldings)
  - v) front dormers (drawing at scale 1:10 of elevations and cross section)
  - vi) front elevation window joinery (cross section drawing at scale 1:1)
  - vii) front and rear parapets and walling (cross section drawing at scale 1:5)
  - viii) roof (cross section drawing at scale 1:5 through proposed ridge and break of slope)
  - ix) sound insulation between floor covering and ceiling below (cross section drawing at scale 1:5).The development shall be carried out in accordance with the approved construction details.

- 6) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. This must include details of measures to manage and minimise noise, vibration, dust, odour and light emissions.
- 7) Demolition or construction works (including deliveries to and from the site) shall take place only between the following hours: 08:30 - 18:00 Mondays to Fridays, 09:00 - 13:00 Saturdays, and not at any time on Sundays or Bank or Public Holidays.
- 8) The development hereby permitted shall be carried out in accordance with the approved Noise Assessment (Dragonfly Consulting Noise Assessment Ref DC3536 R1 1/10/21). The development shall not be occupied until the approved sound attenuation measures have been implemented in accordance with the assessment, and a report demonstrating compliance with these has been submitted to and approved in writing by the local planning authority. The measures shall be retained and maintained as such thereafter.

**Appeal B: APP/C2741/Y/22/3304726**

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No works shall take place until samples of the materials to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 3) No works shall take place until a 1m x 1m panel of the brickwork demonstrating the colour, texture, bonding and mortar treatment of the works hereby permitted, has been erected on site and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved panel. The panel shall be retained on site until a minimum of 1 square metre of the brickwork of the approved works has been completed in accordance with the approved panel.
- 4) Notwithstanding the details shown on the approved plans, no works shall take place until the following construction details have been submitted to and approved in writing by the local planning authority:
  - i) fittings and partitions
  - ii) external vents and flues
  - iii) rainwater disposal from the rear elevation
  - iv) chimney stacks including pots (drawing at scale 1:20 and part cross section drawing at scale 1:5 showing band courses/mouldings)
  - v) front dormers (drawing at scale 1:10 of elevations and cross section)
  - vi) front elevation window joinery (cross section drawing at scale 1:1)
  - vii) front and rear parapets and walling (cross section drawing at scale 1:5)
  - viii) roof (cross section drawing at scale 1:5 through proposed ridge and break of slope)
  - ix) sound insulation between floor covering and ceiling below (cross section drawing at scale 1:5).The works shall be carried out in accordance with the approved construction details.