



Appeal Decision

Site visit made on 5 June 2023

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/C2741/W/22/3309624

34 Main Street, Fulford, York YO10 4PX

- 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 Nick Hare against the decision of City of York Council.
 - The application Ref 22/00471/FUL, dated 2 March 2022, was refused by notice dated 15 June 2022.
 - The development proposed is "construction of a one-bedroom cottage in garden of No 34 Main Street, Fulford".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council advises that there is no adopted development plan. However, the relevant policies are material considerations, and I have afforded them moderate weight. The Council's decision notice refers to Policy D11 of the Publication Draft Local Plan (2018), but this has not been provided and I have not taken that policy into account.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, 30-32 York Road, and the extent to which it would preserve or enhance the character or appearance of the Fulford Village Conservation Area; and
 - the living conditions of the existing and future occupants of the host dwelling, with regard to outlook and outdoor amenity space.

Reasons

Character and Appearance

4. The appeal site comprises the rear garden of an end-of -terrace house, which is situated on Main Street within the Fulford Village Conservation Area. The site lies to the south-west of Nos 30-32 York Road, which is a grade II listed building. The proposed development is a single-storey one bedroom dwelling with a pitched roof. Pedestrian access to the dwelling would be via Medd's Lane, a historic footpath that runs along the northern boundary of the site.

5. The development would require the demolition of a small outbuilding, which appears to date from the mid-twentieth century. The boundary wall with Medd's Lane would be retained and extended upwards to incorporate the eaves of the building. Part of the wall would be removed to enable pedestrian access to the dwelling. There would be no vehicular access and a separate cycle store is included in the scheme. The proposed materials are brick, and the roof would be covered in dark grey cladding with the addition of black solar panels to the south-facing roof plane.
6. The Fulford Village Conservation Area covers an area focussed on the linear plan of the historic settlement. The Council's Conservation Area Appraisal (2008) includes the 1759 Enclosure Award map, which shows the form of its medieval origins depicted by back lanes, connecting footpaths such as Medd's Lane and long burgage plots fronting onto what would become the Main Street. Many of the burgage plots have been sub-divided, but there are exceptions where the historic plots remain relatively undeveloped, which includes the appeal site and the plots either side. Given the above, I find the significance of the Conservation Area, insofar as it relates to these appeals, to be primarily associated with its historic layout, and the variety of traditional buildings which are a record of the development and growth of the village over the centuries.
7. The nearby building, "30 and 32 York Road", now Main Street, was listed in 1986 (Ref: 1316264) and dates from the eighteenth century with later additions. I find the significance of the building to be associated with its vernacular architecture. The appeal site forms one of three remaining burgage plots, which were related to the buildings fronting Main Street. Consequently, the site forms part of the historic setting to the adjacent listed building thereby contributing positively to its significance.
8. The development would involve sub-dividing the garden of the property and creating a separate dwelling with its own amenity space, store and pedestrian access. The proposed dwelling has been designed with the aim of making it subservient to the host property and in keeping with its location. However, burgage plots were traditionally used for purposes ancillary to the street frontage properties. They may have contained relatively large outbuildings but, crucially, there would be a functional association. In this case, the boundaries of the burgage plot would remain discernible but the sub-division and erection of separate dwelling within the plot would make it less easy to interpret its historic origins. This would adversely affect the appreciation and interpretation of the historic settlement and thus, the significance of the Conservation Area.
9. The building would be sited close to the rear of No 34, the design concept being to reflect the form and siting of historic outbuildings and to preserve the open nature of the remainder of the plot. In this respect the design is not without merit, however, it would not have a form and purpose consistent with a historic outbuilding. I accept that it would not be prominent, given its siting and the screening provided by the existing wall. Nonetheless, the building would be visible over the wall and the presence of a relatively large structure would be apparent. The development would not preserve the broadly undeveloped nature of the burgage plot, due its size and function, and cannot be considered subservient.
10. The development would also have an impact on the setting of the listed building. The buildings fronting onto Main Street form part of the historic layout

and there was a direct association between the frontage buildings and the burgage plots. Development within the adjoining burgage plot would interrupt views towards the listed building and would erode the relationship between the listed building and the historic plan of the village. This would adversely affect the significance of the designated heritage asset.

11. In terms of the wider character and appearance, the settlement was originally linear in layout but there has been a significant level of development to the rear of the properties fronting Main Street, for example, 1-15 Fulford Ings and development to the rear of Nos 42-46 Main Street. The character of the village has evolved, and in consequence the development of a rear garden with no direct road frontage would not be wholly out-of-character. However, this does not overcome the harm I have identified to the significance of heritage assets.
12. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's 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 a clear and convincing justification. Given the relatively localised impact, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
13. The appellant is of the opinion that the proposal would be beneficial because the development would make use of under-utilised land and would provide a small contribution to the housing supply, while making a positive contribution to the local economy. In addition, the boundary hedge would be enhanced, and the wall would be repaired. It is also stated that the site is well served by public transport and there are good pedestrian and cycle routes to the city centre. Renewable energy will be used where possible, and the scheme would incorporate solar panels and an air source heat pump.
14. I afford these benefits moderate weight. However, they are not sufficient to outweigh the harm that I have identified. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II listed building, 30 and 32 York Road, and the character or appearance of the Fulford Village Conservation Area. This would fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 197 of the Framework and conflict with policies GP1, GP10, HE2, H4a and HE4 of the Development Control Local Plan (2005 Draft Plan) and Policies D1, D2, D4 and D5 of the draft Local Plan (2018 Draft Plan), which seek to protect heritage assets and ensure development respects its surroundings.

Living Conditions

15. The development would be sited relatively close to the rear of the host property. I saw that there is a window to a dining room / kitchen at the rear of No 34, which would face towards the gable of the new dwelling. The outlook from that window, which serves a main habitable room, would be affected to the detriment of the living conditions of the occupiers.

16. The new dwelling itself would have a relatively spacious garden. However, the amount of rear garden remaining for the occupiers of the host dwelling would be limited and disproportionate in relation to the two-storey house. While the current occupiers may not use the garden, the future of the property must also be considered. The scheme would not allow sufficient space for normal family activities such as sitting outside, hanging washing or for a child to play.
17. I conclude on this issue that the development would have an adverse effect on the living conditions of the occupants of the host dwelling, with regard to outlook and outdoor amenity space. It would be contrary to Policies GP1 and GP10 of the 2005 Draft Plan, which seek to secure a good level of amenity. The development would not meet the aims of the Framework insofar as it seeks to secure a high standard of amenity for existing and future users.

Other Matters

18. The appellant explains that pre-application discussions with the Council indicated a form of development comprising a single storey building, with the appearance of a curtilage outbuilding, would be acceptable. In addition, plans were amended during the application process¹ in an attempt to address concerns raised, which I have taken into account. I appreciate that the appellant has sought to overcome objections to the scheme and has been amenable to the Council's initial advice. However, pre-application discussions are provided without prejudice to any final decision made. This consideration carries limited weight, therefore.

Conclusion

19. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Debbie Moore

Inspector

¹ Drawings Nos 05.2021.PA10 Rev C & PA11 Rev C.