



Appeal Decision

Site visit made on 13 June 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/C2741/W/23/3314409

9 Earlsborough Terrace, York YO30 7BQ

- 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 Kevin Cox against the decision of City of York Council.
 - The application Ref 22/02135/FUL, dated 12 October 2022, was refused by notice dated 7 December 2022.
 - The development proposed is sub-division of the property into 2 properties, to reinstate the original 2 dwellings. Replacement rear extension and dormer window. External wall insulation and render to rear. Amendments to windows and doors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's reason for refusal refers to the City of York Draft Local Plan Incorporating the 4th set of changes - Development Control Local Plan 2005 (the DCLP) and the emerging Local Plan which is currently undergoing examination. The emerging Local Plan has not yet been adopted, and so while it appears to be at an advanced stage in its preparation, I cannot yet accord it full weight. When referring to the emerging Local Plan policies, I have referred to the City of York Local Plan Publication Draft 2018 (the PDLP), as referred to in the Council's reason for refusal. Although the DCLP and the emerging Local Plan do not form part of the statutory development plan for the purposes of Section 38(6) of the Planning and Compensation Act 2004, they are material considerations in determining planning applications.

Main Issue

3. The main issue is whether the proposal would constitute good design and would preserve or enhance the character or appearance of the York Central Historic Core Conservation Area.

Reasons

4. The appeal site consists of two mid-terraced properties that have been combined into one, located within the York Central Historic Core Conservation Area (the Conservation Area) in Character Area Three: Marygate. The significance of the Conservation Area as a whole is derived in part from its street pattern and layers of historic architecture, which reflect the development of the city over its long history.
5. Earlsborough Terrace is an attractive, relatively well-preserved nineteenth century terrace. The front elevation of the terrace has decorative brickwork,

regular fenestration including mainly bay windows to the ground floor level and front gardens facing towards the river. The rear elevations are less detailed. Nevertheless, in the traditional proportions, materials and arrangements, the rear of the terrace, despite it not being the principal elevation, has a uniformity which gives it a pleasing visual quality that is clearly visible from the surrounding area. The terrace as a whole has a harmonious appearance and contributes positively to the significance and overall historic coherence of the Conservation Area. Indeed, the Conservation Area Appraisal¹ identifies the properties within the terrace as Buildings of Merit that contribute positively to Marygate's picturesque townscape.

6. The proposal would comprise the subdivision of the property to create two dwellings. To facilitate this, external alterations are proposed, mainly to the rear of the property. These would include a mansard type roof at the rear with two dormers, the removal of an existing outhouse and rear extension and their replacement with a new extension across the width of the building for both dwellings that would be created, the addition of external insulation and render on the rear elevation, and alterations to windows and doors.
7. The proposal includes a light render finish across the whole of what would be the altered rear elevation of the property. This extensive use of render would appear incongruous when viewed alongside the other properties in the terrace which have mainly retained their red brick elevations. Furthermore, it would markedly differ in colour and texture to the largely unified character of the surrounding area with its broadly consistent red brick elevations and would draw the eye as a discordant and uncharacteristic feature.
8. I appreciate that the end property in the terrace has a light coloured paint on part of its rear elevation. However, this is only across the rear elevation of the two-storey outrigger and the underlying texture of the bricks is still discernible and so it does not represent such a jarring contrast with the rest of the terrace block as the appeal proposal would.
9. Reference is made to examples of painted and rendered properties on nearby Marygate, with photographs provided. One of these examples includes such a finish across only the upper part of the elevation. The other examples are buildings which appear architecturally different to their neighbouring properties, notwithstanding the render/paint finish. As such, they are not directly analogous to the appeal proposal which relates to a mid-terrace property that forms part of a consistently designed block.
10. There is some variety in window types on the rear elevations of the properties within the terrace. However, they are mostly sash or multi paned and all of the properties have retained white or pale coloured window frames, which provides a pleasing contrast with the red brick.
11. Although similar opening widths and curved window heads would be used, the windows proposed in the rear elevation would be dark grey and single paned. The dark colour of the frames would be accentuated by the light render proposed. The windows would therefore stand out in stark contrast to the prevalent and unifying pale colour treatment of windows on the terrace and within this Character Area of the Conservation Area. The windows would be discerned as contemporary insertions that would jar with the historic terraced

¹ York Central Historic Core Conservation Area Appraisal Character Area Three: Marygate

- block, notwithstanding what may be their high-quality and sustainable attributes.
12. I appreciate that there are nearby examples of different window frame colours. However, these are not so prevalent in the locality as to be characteristic of it, including in the street scape in which the appeal property is viewed.
 13. The roof line of the mid terraced properties, including the appeal property, is higher than those at each end, and there are dormer windows here, which are absent on the rear roof plane of the properties at either end of the terrace. I also appreciate that there is some variety in the ridge tiles. Nevertheless, the angle and shape of the front and rear roof slopes of the terrace is consistent, as is the roof profile that the appeal property shares with the other dwellings within the mid-section of the terrace. Overall, the roofline retains an underlying symmetry.
 14. Roof additions may be found nearby, including within the Conservation Area. I do not know the circumstances that led to the construction of these examples. In any event, I have determined the appeal on its own planning merits, based on the evidence and site-specific circumstances before me. The pitch of the rear roof plane proposed would noticeably diverge from the other properties in the terrace. It would give the appeal property a bulkier and top-heavy appearance that would unbalance the roofscape of the terrace and reduce the impression of cohesiveness.
 15. I appreciate the consideration that has gone into the appeal proposal to address the concerns raised with the previous scheme and to achieve a contemporary approach to the subdivision of the property. However, taken together, the design and materials proposed would not be sympathetic to the established character of the property. A contemporary approach on the scale proposed would detract from the historic character of the property and the terrace in which it sits and would diminish the underlying uniformity, and in this respect would not constitute good design. While these alterations would be at the rear of the appeal property, they would be readily visible and highly conspicuous from nearby properties and public areas including Frederic Street, Marygate car park and the pedestrian/cycle bridge over the river, which would highlight their discordance.
 16. Overall, therefore, the proposal would represent an incongruous form of development that would fail to preserve the character or appearance of the Conservation Area.
 17. In terms of the National Planning Policy Framework 2021 (the Framework), I assess the harm to the Conservation Area as less than substantial. Even so, paragraph 199 of the Framework directs me to give 'great weight' to the conservation of such assets; less than substantial harm does not equate to a less than substantial planning objection, especially where national policy expectations for conserving such assets have not been met.
 18. The proposal would contribute a net addition of one dwelling to the supply of housing on an existing site in a location within a reasonable walking distance of a range of services and facilities. In this regard, it would accord with objectives of the Framework, including significantly boosting the supply of homes. There would be some economic benefits during construction and occupation, for example in the latter instance via local spend and support given to the use of

local services and facilities. However, the weight that I afford these public benefits in terms of a net addition of one dwelling is inevitably limited.

19. The proposal includes measures to improve the thermal efficiency of the building through the use of internal insulation to the front and external wall insulation with the render finish to the rear. An upgraded building that is more energy efficient would have some public benefit but there is limited evidence before me to the degree that the works would contribute to energy efficiency, or to the protection of the front elevation over the longer term.
20. The evidence before me indicates that the proposal would provide a good standard of amenity for future occupiers. However, a lack of harm is neutral in the balancing exercise.
21. Collectively, I find that the above public benefits are not sufficient to outweigh the less than substantial harm that would be caused to the designated heritage asset. They do not represent 'clear and convincing justification' for harm to or loss of significance of the designated heritage asset, as required by paragraph 200 of the Framework.
22. For the above reasons, the proposal would conflict with Policies D1, D4 and D11 of the PDLP and Policies GP1 and HE3 of the DCLP. Amongst other matters, these policies seek to secure high quality design that enhances or reinforces local distinctiveness, and where relevant require development to preserve or enhance the special character and appearance of conservation areas. It would also be contrary to the design objectives in chapter 12 of the Framework and its requirements for the historic environment in chapter 16 as set out above, and guidance in the 2012 House Extensions and Alterations Supplementary Planning Document relating to character and street scene.

Conclusion

23. For the above reasons, having taken account of all relevant material considerations, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR