



Appeal Decision

Hearing held on 9 August 2023

Site visit made on 9 August 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2023

Appeal Ref: APP/E2734/W/23/3322021

10-14 James Street, Harrogate HG1 1RD

- 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 Antony Rosindale (10 JS Ltd) against the decision of Harrogate Borough Council.
 - The application Ref 22/02813/FUL, dated 15 July 2022, was refused by notice dated 25 November 2022.
 - The development proposed is the change of use of ground floor (part) and upper floors from retail (Use Class E) to aparthotel (Use Class C1), erection of third floor and roof extension and alterations to fenestration.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground floor (part) and upper floors from retail (Use Class E) to aparthotel (Use Class C1), erection of third floor and roof extension and alterations to fenestration at 10-14 James Street, Harrogate HG1 1RD in accordance with the terms of the application, Ref 22/02813/FUL, dated 15 July 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. On 1 April 2023 Harrogate Borough Council merged with a number of other Councils to form a new Unitary Authority known as North Yorkshire Council. Regulation 26 of The Local Government (Boundary Changes) Regulations 2018, allows for any extant development plans to have effect as if adopted by the new Unitary Authority until such time as the new Unitary Authority adopts a plan covering the whole of its area. For the purposes of this appeal, the development plan comprises the Harrogate District Local Plan 2020 (LP).
3. Upon validation of the planning application the Council changed the description of development from that given on the planning application form. The appellant has confirmed that they accepted this change, and therefore I have used the amended description in both the banner header and the formal decision above.
4. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Harrogate Conservation Area (CA).
5. There is some confusion pertaining from differences in the written text and Map 4 in the Harrogate Conservation Area Appraisal 2010 (HCAA) as to whether the appeal buildings are identified as being of local interest & merit. However,

notwithstanding this, it is the Council's position that the buildings are non-designated heritage assets (NDHAs) due to their historic interest and contribution to the character and appearance of the CA. The appellant confirmed in their Statement of Case, and also verbally at the hearing, that this is not a matter they wish to dispute. Accordingly, I shall make my assessment on the basis that the buildings are NDHAs.

6. The appellant submitted two revised drawings with the appeal (20548-2151-P-03 and 20548-2152-P-03) which update the existing north and south elevations to include external plant that is currently present on the buildings. There are no changes to the corresponding proposed north or south elevational drawings in comparison to the drawings that were provided at the planning application stage. I am therefore satisfied that the amended drawings can be accepted for reference purposes without prejudice being caused to any party.
7. Long elevations of the existing and proposed James Street and Market Place/Petergate street scenes (20548-2250-P02 and 20548-2251-P-00) and an existing and proposed long section through the building (20548-2252 P-01) were also provided, in addition to several verified views. These have been put forward to illustrate the impact that the proposed development would have in the context of its wider surroundings, and the Council raises no concerns with reference being made to them. This being the case, these drawings can also be accepted without prejudice being caused.

Main Issues

8. The main issues are:

- (i) The effect of the proposed development on the character and appearance of the CA
- (ii) Whether the proposed development would provide acceptable living conditions for the future occupants of the aparthotel

Reasons

Character and appearance of the CA

9. The appeal site is located within Character Area A (The Town Centre) of the CA, as defined by the HCAA. This is an area with a varied mix of uses and buildings. James Street has a particular function as a shopping street, and the HCAA notes the presence of the high-quality shops that are centred on this and nearby roads. The HCAA also acknowledges that the buildings in Area A are so varied that it is not possible to make more than a few broad observations, however it does note that the prevailing height of buildings is three storeys. The significance of the CA lies in the development found at the centre of Harrogate, which is of architectural and historic interest. The buildings along James Street are in both respects positive contributors to this significance.
10. The frontages of the appeal buildings appear prominently on James Street, especially in views looking west from the A61, where their visual impact is accentuated by the curve of the road. With the exception of the modern second floor extension to 10 James Street, the appeal buildings collectively contribute positively to the character and appearance of the CA as part of the wider street scene. Although the buildings immediately adjacent to the appeal site are both of a notably lower height, there is considerable variation in both the height and

massing of other buildings along James Street. There is, therefore, little uniformity in the height and massing of buildings in the wider street scene context in which the appeal proposal would appear.

11. The third-floor roof extension is shown to not exceed the highest point of the existing roof of 14 James Street. Given the variation in heights in the street scene and because this maximum height would be consistent with that of one of its host buildings, the height proposed is not objectionable. However, due to the amount of new floorspace that is proposed, the third-floor roof extension would serve to greatly increase the bulk of the roof level of the appeal buildings in comparison to what exists at the present time. This increase would be evident in a number of views taken from both directions along James Street and would as a result have an impact on the CA.
12. There are however mitigating factors that would reduce the impact of the proposed development on James Street. Primarily, the impact would be substantially reduced by the considerable set back of the third-floor roof extension from the front elevation of the building. This would mean that although it would be visible from longer views on James Street, it would not dominate or visually compete with the main front elevations of the appeal buildings. In closer views there would be no perceptible visual impact, due to the height of the front elevations and the width of the road. Although of a modern design and materials and with a glazed balustrade, the setback would ensure a successful visual integration. This element of the proposal would therefore provide the additional floorspace sought without causing harm to the character and appearance of the CA or to the significance of the NDHAs when viewed from James Street and adjoining roads.
13. Furthermore, the proposal would have a clear visual benefit in the form of the removal of the existing second floor extension to 10 James Street. This is an unsightly addition that is of a particularly unsympathetic design with visible plant above it. It has a poor visual relationship to its host building and to the surrounding street scene and accordingly causes harm to the character and appearance of the CA. The removal of this and its replacement with an ashlar fronted extension set back further from the front elevation of the building would be a considerable design improvement and one that would serve to enhance the character and appearance of the CA and the NDHAs. It is unlikely that such a design improvement would come about independently from a more comprehensive development of the buildings, and as such its inclusion as part of the appeal scheme weighs in its favour.
14. The rear of the building directly faces the service area of the Victoria Shopping Centre, but nonetheless appears prominently in views taken looking west from Station Square and east from Market Place/Petergate. Each of the buildings within the appeal site has a rear range of a differing design and materials, which means there is little visual consistency in this elevation when taken as a whole. Painting the areas of more modern brickwork would rationalise the collective appearance of the buildings and enhance their visual impact on the CA. However, although I acknowledge that some nearby shopfronts are painted black, the amount of black painting that would take place as part of the proposal would have a stark and harmful visual effect on the CA. But as was discussed at the hearing, a more appropriate and softer colour than black could be secured by way of a planning condition.

15. The Council confirmed at the hearing that they do not raise an objection to the other elements of the proposed development that would affect the rear elevation when viewed from Station Square and Market Place/Petergate. This would consist primarily of the addition of a mansard roof, which is a design feature found elsewhere in the CA, including on the shopping centre opposite. I concur that there would not be harm to the character and appearance of the CA or to the significance of the NDHAs from these elements of the proposal.
16. For these reasons, I conclude that the proposed development would not cause harm to the character and appearance of the CA or to the significance of the appeal buildings as NDHAs. It would instead, as a whole, preserve the character and appearance of the CA. Consequently, it would accord with Policies HP2 and HP3 of the LP, where they seek to protect designated and non-designated heritage assets and to promote local distinctiveness. There would also be no conflict with the aims of the HCAA, the Harrogate District Heritage Management Guidance Supplementary Planning Document 2014 (SPD) or the National Planning Policy Framework (the Framework) in the same regards.

Living conditions

17. The second reason for refusal refers to unacceptable living conditions being provided in two respects. This is in terms of the proximity of the facing bedroom windows of rooms 101-105, 201-204 and 206 to one another, and in terms of a poor outlook and insufficient levels of natural daylight in the same rooms. There is also reference to there being insufficient information to establish whether adequate natural daylight and ventilation would be provided to room 301. However, the appellant submitted two amended plans after the hearing to provide clarity on this and the Council has subsequently had the opportunity to comment on those plans. In addition to the provision of the mechanical ventilation set out in the Noise Impact Assessment, I am satisfied that this addresses the concerns with respect to room 301.
18. The distances between the windows identified and the availability of natural daylight would to some extent compromise the living conditions of the future occupants of the aparthotel. But the severity of this impact would be directly related to how long an individual would occupy the room and their purpose for doing so. For example, a tourist visiting for a short holiday period would be much less adversely affected by the living conditions offered, given that their aim in choosing a busy urban location would not be likely to spend extended periods of time in their accommodation. Whilst the Council raises concerns that the proposed rooms would not represent the high standard of amenity for future users expected by the Framework and are not acceptable irrespective of the length of stay, the overall size of the rooms and the internal facilities available would mean that they would be acceptable for the shorter-term visitor.
19. However, a person could occupy one of the rooms for longer than what could reasonably be considered to be a short-term stay. This could include people working temporarily in the area. In the circumstance of a longer stay for work purposes it would be likely that much more time would be spent in the accommodation. The lack of privacy in the bedrooms identified, and to a lesser extent the outlook and levels of natural daylight, means that acceptable living conditions would not be provided with respect to those bedrooms, looking at

the situation on a longer-term basis. In light of this, it is therefore both reasonable and necessary to impose a condition restricting the length of stays that an individual can make.

20. In that respect, the appellant advised at the hearing that a restriction to no longer than 28 days would not compromise the operation of the proposed aparthotel in commercial terms. Such a restriction was therefore offered forward as an alternative to the 6 month period referred to in the original planning application submission, and to a 90 day period outlined in their Statement of Case. However, notwithstanding the appellant's position on this, I am still required to have regard to the test of reasonableness when imposing a condition, in accordance with paragraph 56 of the Framework.
21. In determining what is a reasonable time period restriction I give regard to the fact that the rooms affected by a lack of privacy, outlook and daylight are bedrooms, and that alternative living space is provided in each of the units. This means that there would be a lesser need to spend waking hours in the bedrooms. Nonetheless, the overlooking that would be possible and the perception of others being able to see into the bedroom areas would make these rooms uncomfortable areas to spend time in during waking hours unless curtains or blinds were closed. Whilst the appellant refers to the potential use of trellising as a screen, this would affect outlook and daylight further and therefore not be an appropriate solution. The use of obscure glazing would also not provide a suitable outlook and would not be an acceptable solution.
22. A period of 6 months is a substantial period of time for a person to experience these living conditions and in my judgement, should this occur, there would be clear harm arising. A period of 28 days would offer a greater restriction and the Council has provided a copy of a recent appeal decision¹ for holiday accommodation where that restriction was imposed. However, the appellant explicitly seeks flexibility to allow for the potential for temporary stays in the area that are not associated with tourism. There would be some benefit in this flexibility in terms of providing a supply of such accommodation. As a whole and in the specific circumstances of this appeal case that I have outlined, a restriction of 90 days strikes an appropriate balance.
23. I therefore conclude that, subject to a restriction on the length of stays to a maximum of 90 days, the proposed development would provide acceptable living conditions for the future occupants of the aparthotel. It would therefore accord with Policy HP4 of the LP, where it seeks to protect amenity. There would also be no conflict with the aims of the Framework in the same regard.

Conditions

24. Conditions relating to the time period to commence development and to the approved plans are required to provide certainty. Conditions relating to external facing and roofing materials and to joinery details for windows are needed to ensure that the proposed development has an appropriate finish given its CA location. As addressed above, this should include details of the paint finish or treatment of external surfaces, notwithstanding what is shown on the plans submitted. A condition requiring that the waste provision shown on the ground floor drawing submitted is put in place and managed in

¹ APP/E2734/W/23/3317660

accordance with the submitted details is necessary to ensure that the development is serviced in that respect.

25. Approval of a construction management plan is required to ensure that acceptable arrangements are put in place during the construction phase. This condition must be a pre-commencement condition so that the plan can be agreed before work begins. A condition restricting the hours of construction is needed in order not to cause undue disturbance to surrounding sensitive uses. A condition restricting the duration of stays is needed for the reasons that have been set out previously in this decision. Conditions requiring that the works take place in accordance with the Noise Impact Assessment, the Building, Facility, & Operation Management Plan, the Bat Report, the Sustainability and Energy Statement and the Drainage Appraisal are needed to ensure that development is undertaken in accordance with the parameters that the appellant has set out in their submission.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

Graham Wraight

INSPECTOR

Conditions

- 1) The development hereby permitted shall be begun on or before 3 years from the date of this permission.
- 2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the following details:

20548-0201 Revision P-00 – Location Plan

20548-2154 Revision P-00 General Arrangement - East Elevation - Existing & Proposed

20548-0222 Revision P-00 Existing & Proposed Internal Elevations

20548-2001 Revision P-02 General Arrangement - Ground Floor Plan (planning application validation revision)

20548-2002 Revision P-02 General Arrangement - First Floor Plan (planning application validation revision)

20548-2003 Revision P-02 General Arrangement - Second Floor Plan (planning application validation revision)

20548-2004 Revision P-02 General Arrangement - Third Floor Plan (as submitted following the hearing)

20548-2011 Revision P-02 General Arrangement - Roof Plan

20548-2101 Revision P-02 General Arrangement – Sections

20548-2102 Revision P-02 General Arrangement – Sections

20548-2151 Revision P-03 General Arrangement - Existing and Proposed South Elevations (as submitted following the hearing)

20548-2152 Revision P-02 General Arrangement - Existing and Proposed North Elevations

20548-0212 Revision P-00 Proposed Site Plan

- 3) Prior to their first use, details and material samples of the external walls and roofs of the development to include the aluminium cladding, standing seam, stone and brick hereby approved shall be made available on site for the inspection by and written approval of the Local Planning Authority. This shall include, notwithstanding the details shown on the approved plans, details of the paint finish or treatment of the external elevations of the building. The development shall then be carried out in strict accordance with the approved details.
- 4) Prior to their installation and notwithstanding the submitted details, joinery details of the north and south elevation windows hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. These

details must include elevation and sections at scale 1:10, 1:20 or as appropriate. The drawings must indicate where new openings are to be formed and confirm materials. The work shall then be carried out in strict accordance with the approved details.

- 5) Prior to the occupation of the approved guest accommodation, the waste storage facilities shown on drawing 20548-2001 Rev P-02 shall be implemented and managed in accordance with the waste management strategy outlined in the Building, Facility & Operation Management Plan 14 June 2022 and maintained for the life of the approved development.
- 6) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 - a) The parking of all contractors, site operatives and visitors vehicles;
 - b) The storage of all plant and materials used in the conversion/development; and
 - c) Measures to manage the delivery of materials and plant to the site including the routing and timing of deliveries and the location of loading and unloading areas.

The construction/conversion must then be carried out in full accordance with the approved Construction Management Plan.

- 7) Work shall be carried out in strict accordance with Section 5.06, Section 5.08 and Table 5.1 (glazing details), Sections 5.04 and 5.05 (ventilation systems) and the recommendations regarding the separating floor between the ground floor commercial unit and proposed overlying apartments (Sections 5.10-5.14) of the Noise Impact Assessment (Environmental Noise Solutions, 31 March 2022). These measures shall be retained for the lifetime of the development.
- 8) Construction and conversion works shall take place only between the following hours:
08:00 to 18:00 Mondays to Fridays
08:00 to 13:00 Saturdays
No work on Sundays or on Bank or Public Holidays
- 9) The aparthotel hereby approved shall be used as visitor accommodation only and shall not be occupied by any person(s) as their sole or main place of residence. None of the aparthotel rooms hereby permitted shall be occupied by or let to the same person for a continuous period of a length of time exceeding 90 days. The aparthotel manager(s) shall keep a written record of all occupants of all the aparthotel rooms for the lifetime of the development for the inspection of the Local Planning Authority. This written record shall contain full name(s) and contact address(es) for any person(s) that use any of the aparthotel rooms.
- 10) The aparthotel shall be operated in accordance with the Building, Facility, & Operation Management Plan dated 14 June 2022.
- 11) Work shall be carried out in strict accordance with Section 6.6 (bats) and Section 6.7 (biodiversity enhancements) of the Bat Report (Futures Ecology July

2022). The biodiversity enhancements shall be retained for the lifetime of the development.

12) Work shall be carried out in strict accordance with Section 4 (Sustainability Performance) and Section 5 (Energy Strategy) of the Sustainability and Energy Statement (Element Sustainability August 2022). These measures shall be retained for the lifetime of the development.

13) Work shall be carried out in strict accordance with Section 6 (Proposed Drainage) of the Drainage Appraisal (Simba Consultants Limited January 2022 Rev 3). These measures shall be retained for the lifetime of the development.

-----End of Conditions-----

APPEARANCES

FOR THE APPELLANT:

Emma Lancaster – Quod

Susan Amaku – Woodhall Planning and Conservation

FOR THE LOCAL PLANNING AUTHORITY:

Emma Howson – Senior Development Management Officer

PLANS

20548-2004 P-02 – General Arrangement – Third Floor Plan (post hearing)

20548-2151-P-03 – General Arrangement – Existing and Proposed South Elevations (drawings prior to and post hearing).

20548-2152 P-03 – General Arrangement – Existing and Proposed North Elevations

20548-2250-P-02 – James Street Long Elevations – Existing and Proposed 1/2

20548-2251-P-00 – James Street Long Elevations – Existing and Proposed 2/2

20548-2252 P-01 – James Street Long Sections – Existing and Proposed

Verified Views