



Appeal Decision

Site visit made on 1 November 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2024

Appeal Ref: APP/G2713/W/23/3322004

2 Chapel Street, North Yorkshire, Thirsk YO7 1LU

- 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 Lambert Medical Centre against the decision of Hambleton District Council.
 - The application Ref 22/02208/FUL, dated 22 September 2022, was refused by notice dated 30 March 2023.
 - The development proposed is retention of steel storage container.
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Decision

1. The appeal is allowed and planning permission is granted for retention of steel storage container at 2 Chapel Street, North Yorkshire, Thirsk YO7 1LU in accordance with the terms of the application, Ref 22/02208/FUL, dated 22 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Layout Plan as Existing and Proposed – Drg No. 2020:LMC/01 Rev A
 - 2) The storage container shall be removed from the site, and the land re-instated to its former condition, no later than two years following the date of this decision.

Applications for costs

2. An application for costs has been made by Lambert Medical Centre against the Council. This is subject to a separate decision.

Preliminary Matters

3. The site address in the banner heading above has been taken from the planning application form.
4. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.
5. Since the planning application was determined, Hambleton District Council has merged with several Councils to form North Yorkshire Council. However, the development plan policies against which the planning application was determined remain in place until such time as they are revoked or replaced. I have determined the appeal on this basis.

6. The appeal site is within the Thirsk and Sowerby Conservation Area (the CA) and sits within the setting of the Grade II listed building of 2 Chapel Street (the LB). Accordingly, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. The submitted plans illustrate the container being positioned to the northeast corner of the adjacent building of the Thirsk & Sowerby Institute. At the time of my visit the container was in situ, but its precise position did not fully reflect the submitted plans. It appeared to be positioned slightly further to the west than is shown on the plans, with the container partially overlapping the north elevation of the Thirsk & Sowerby Institute building. As such, I cannot be certain that the development I observed on site represented its intended finished position. I have therefore determined the appeal based on the submitted plans on which the Council made its decision.

Background and Main Issues

8. The description in the application form relates to the retention of a steel storage container. The evidence submitted by both parties illustrates that planning permission was previously granted for the siting of a steel storage container on a temporary basis, for the purposes of storing patient medical records. The records were to be stored for up to two years, during which time they would be digitised, which would negate the requirement for physical storage. However, I understand there have been delays to the digitisation process and physical storage is still required, and the temporary planning permission has since lapsed. The proposal subject to the current appeal seeks a further temporary consent.
9. The main issues are therefore the effect of the proposal on:
 - the character and appearance of the area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of the LB, and the extent to which it would preserve or enhance the character or appearance of the CA; and
 - neighbouring amenity.

Reasons

Character and appearance

10. The CA covers a large area comprising much of the central part of Thirsk to the north of the site and Sowerby to the south. The Thirsk and Sowerby Conservation Area Appraisal Supplementary Planning Document (the SPD) identifies 8 distinctive character areas that comprise the CA, with the appeal site forming part of The Market Place character area. As its name suggests, this is centred on the historic market area and its surrounding streets and comprises the central core of the town of Thirsk, containing many of its commercial and public amenities. The A61 runs through the Market Place itself, which is flanked by parking and pedestrian areas to create an open and spacious character. In the surrounding streets, including Chapel Street, from where the appeal site is accessed, buildings are more densely bound to the road frontages. There are a variety of architectural styles on display, reflecting the historic evolution of the town through previous centuries.

11. To the south of the site, beyond the adjacent Thirsk & Sowerby Institute building, is an area of open space known as Sowerby Flatts from which the appeal site can be viewed. The SPD identifies this area as part of The Flatts character area, and states that the most important roles of Sowerby Flatts in the context of the CA are to maintain the separation between Thirsk and Sowerby, and to allow the two settlements to be viewed from a distance.
12. Given the above, the significance of the CA, insofar as it relates to this appeal, is primarily associated with the distinctive and disparate characteristics of the different character areas, and in particular the role played by the relationship between The Flatts and The Market Place character areas in terms of longer distance views of the historic town of Thirsk.
13. The proposal would be visible from various vantage points in the surrounding area, including from positions within the CA such as Chapel Street and Sowerby Flatts. The container would be of insignificant scale, sitting lower than the eaves of the adjacent single-storey Thirsk & Sowerby Institute building, and it would be contained within a compound of close-boarded fencing which would screen it to a significant extent when viewed from the surrounding area. The proposal is for a period of two years, and any adverse effects would therefore only be felt over a temporary and relatively short period of time.
14. However, during this time, it would be partially visible above the fencing and its utilitarian appearance would jar somewhat with the characteristic surroundings of the CA. As such, the proposal would result in some harm to the character and appearance of the CA.
15. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given my findings above, particularly in relation to the short period of consent sought, the harm to the CA is less than substantial in this instance but nevertheless of considerable importance and weight.
16. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The appellant states that the container is proposed as a temporary measure to store patient records in connection with the adjacent medical centre. It is understood that due to expansion works and ongoing capacity issues at the medical centre, there is no longer space to store medical records in the main building. Due to the need for staff to periodically access patient records, there is still a requirement for these details to be retained on site. The precise timescale for the completion of the digitisation of patient records is not currently known. For these reasons, the appellant seeks a further temporary consent of at least two years for the siting of the container.
17. It is clear that the medical centre provides an essential public service to the local community. The reasons put forward by the appellant in support of the proposal are convincing and demonstrate that it would enable the medical centre to continue to operate effectively for the benefit of the community it serves. Furthermore, numerous letters of support have been submitted from

patients and interested parties reiterating the importance of the medical centre to the local community. As such, even considering the great weight to be given to the conservation of the CA, I find there would be clear and convincing public benefits arising from the proposal that would outweigh the less than substantial harm to the significance of the CA over the temporary period of consent.

18. The LB was listed in 1984 and dates from the 18th century. It is a 2-storey building with a pitched roof that was originally built as a house. It comprises the main visible presence of the Lambert Medical Centre when viewed from Chapel Street. To the rear, closer to the appeal site, the building has been subject to various later extensions and alterations that appear to date from the 20th century onwards. The special interest of the LB, insofar as it relates to the appeal, is primarily associated with its contribution to the characteristic appearance of the CA and the role it plays in retaining this character alongside later development.
19. The appeal site is well separated from the part of the LB described in the listing, with this separation comprising partially of the later, largely nondescript extensions and alterations to the rear of the LB, and partially of the medical centre's car park. Although the container would be visible in some views of the LB from Chapel Street and from Sowerby Flatts, it would appear distantly related to the LB. Furthermore, the container would be set against another nondescript building, the Thirsk & Sowerby Institute, in such views. The proposal would therefore form a very limited part of the setting of the LB. As such, there would be a neutral effect on the special interest of the LB and its significance would be preserved.
20. For the reasons above, the proposal would preserve the significance of the LB, and although it would result in less than substantial harm to the significance of the CA, this would be outweighed by public benefits. Accordingly, the proposal would accord with Policies S1, S7 and E5 of the Hambleton Local Plan – Adopted February 2022 (the HLP), which together seek, among other objectives, to meet development needs through sustainable development that supports existing communities, to support development and infrastructure provision, and to conserve heritage assets in a manner appropriate to their significance.

Neighbouring amenity

21. This matter relates primarily to the relationship between the proposed container and the adjacent building of the Thirsk & Sowerby Institute. Although the adjacent building does not provide living accommodation, the closest window to the container is understood to serve a kitchen area that is well used. With the container in its current position, views from this window are partially obscured when the container door is open.
22. Due to the aforementioned discrepancies with the submitted plans, siting the container in the position shown on the plans would greatly reduce any effects on outlook from this window. However, in any event, even with the container in its current position, the effects would be greatly reduced when the door is closed which, given the evidence submitted and the sensitive nature of the documents stored within the container, would be most of the time. Furthermore, outlook from this window is greatly limited by the proximity of close-boarded fencing. Given these considerations, and the use of the adjacent property for non-residential purposes, I do not find the proposals would

- generate harm to neighbouring amenity in respect of the proximity to the adjacent window for the temporary period sought.
23. Representatives of the Thirsk & Sowerby Institute have provided details of instances of anti-social behaviour taking place at the site. The evidence indicates that this has taken place in the vicinity of the container, and no similar issues were encountered prior to the installation of the container.
24. Although I acknowledge that such issues are unpleasant to deal with, and this may have led to expense for the Thirsk & Sowerby Institute, I am provided with limited robust evidence that the container is responsible for the increased prevalence of such behaviour. Whilst it has been suggested that the container could be sited in a different position, I am required to consider the proposals based only on the details submitted. In any event, I am provided with no substantive evidence that moving the container would lead to any reduction in anti-social behaviour in the vicinity of the site. As such, I do not find any compelling evidence of harm in this regard.
25. The Thirsk & Sowerby Institute raises concerns that the position of the container would impede access to maintain the rainwater system. Notwithstanding the matter of the discrepancy with the submitted plans, Certificate A of the planning application form was completed, declaring that the appellant is the sole owner of the land subject to the appeal. In the absence of any compelling evidence to indicate this is not the case, the matter of access is a private matter to be resolved between the parties and holds no weight in my decision.
26. For the reasons above, the proposal would not harm neighbouring amenity and would accord with Policy E2 of the HLP which seeks, among other objectives, to provide and maintain a high standard of amenity for all users and occupiers, including users of neighbouring land and buildings.

Conditions

27. The Council has provided a list of suggested conditions that I have considered against the provisions of Paragraph 56 of the Framework and the Planning Practice Guidance. Where appropriate, slight amendments have been made to the suggested conditions to comply with these provisions.
28. A condition relating to the approved plans is necessary in the interests of certainty.
29. For the reasons previously identified, the container is not suitable for permanent retention. The appellant has stated that the container is only required until such time as the digitisation of medical records has been completed. Whilst the precise timescales for this are not currently known, the appellant seeks consent for a minimum of two years. In the absence of any specific evidence regarding the timescales, a two-year temporary consent is considered appropriate, following which the container must be removed and the land reinstated to its former condition.
30. Because of the temporary period of consent, the standard 3-year time limit condition is not necessary.

Conclusion

31. For the reasons given above I conclude that the appeal should be allowed subject to the conditions listed in my formal decision.

P Storey

INSPECTOR