



Appeal Decision

Site visit made on 9 April 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2024

Appeal Ref: APP/C2741/W/23/3333780

Walnut Tree Inn, Heworth, York YO31 1AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by The Stonegate Group against the decision of City of York Council.
 - The application Ref is 23/00962/FUL.
 - The development proposed is erection of timber pergola, expansion of paved area, and other alterations to existing external area.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of timber pergola, expansion of paved area, and other alterations to existing external area at the Walnut Tree Inn, Heworth, York, YO31 1AN, in accordance with the terms of the application, Ref 23/00962/FUL, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 4866-LP-01 Location Plan; 4866-09-02 Proposed Pergola Elevations; 4866-09-03 Proposed Pergola Elevations – 2; 4866-02-01 Rev A Proposed External Seating Area; 4866-02-02 Rev A Proposed Site Plan; 4866-02-03 Rev A Proposed Planning GA.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.
3. The emerging Local Plan has not been adopted, and so while it appears to be at an advanced stage of 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.

Main Issue

4. The main issue is whether the development preserves or enhances the character or appearance of the Heworth Green/East Parade Conservation Area.

Reasons

5. The pergola is currently on the site and the extended paved seating area has been installed. They are within the garden of the Walnut Tree Inn adjacent to

the conservatory on the western side of the main building and within the Heworth Green/East Parade Conservation Area (the Conservation Area).

6. The significance of the Conservation Area is derived, in part, from the architectural and historic interest associated with the piecemeal development of what was a small rural village and the evidence it provides of the architectural style and building techniques of the time. The green spaces, buildings enclosing the streets, and small-scale residential buildings with some larger scale suburban villas contribute to the sense of being in a small rural village. The prevalent use of brick within the built form gives some coherence to the street scape. As a substantial suburban brick-built villa set within a spacious garden, the Walnut Tree Inn and its wider site contribute positively to the character and appearance of the Conservation Area.
7. The use of timber in the pergola is not reflective of the predominant building material within the built form in the vicinity of the site. However, from many vantage points along Heworth Village, it is the open sides of the pergola that are prevalent in views, with the main building remaining clearly visible in between the timber posts. Although the pergola extends forward of the main building, the one solid timber boarded elevation that faces the road is only visible from limited vantage points in the surrounding area. In such views, it sits below the eaves of the conservatory extension and appears as clearly subservient to the main building. While the use of timber contrasts with the material of the main building and much of the surrounding built form, the pergola's modest scale and height and its clearly subordinate nature means that it does not unduly draw the eye, nor does it detract from the street scape, even allowing for the deciduous nature of much of the boundary vegetation.
8. Although part of the garden has been taken up by the pergola, a large open grassed area remains. In addition, given that it is the open sides of the pergola that features in views from many vantage points along Heworth Village when looking towards the site and within the site itself, the sense of spaciousness around the main building and within the street scape is not diminished.
9. The polycarbonate sheet roof can be seen when in the pergola. It can also be seen from further along Heworth Village to the west although given the distance of these locations, the material is not readily discernible. The roof cannot be clearly seen from the east due to its sloping nature. These factors limit the visual effects of the roofing material.
10. The new paving that has been added matches the existing paved areas. Even though several tables and chairs are within this area, it does not alter the sense of openness within the site.
11. Overall, in my judgement, the form and design of the development does not appear as an incongruous and visually dominant feature in the street scene, nor does it diminish the spacious garden setting of the site. I therefore conclude that the development preserves the character and appearance of the Conservation Area and does not harm its significance as a designated heritage asset. As I have found no harm to the significance of the designated heritage asset, I do not need to weigh in any public benefits of the development in line with paragraph 208 of the Framework.
12. Accordingly, the development accords with Policy D4 of the PDLP which, amongst other matters, supports development that preserves or enhances the

special character and appearance of conservation areas. There would also be no conflict with the design and heritage objectives of sections 12 and 16 of the Framework or the duty imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Other Matters

13. The Council's Public Protection team has received noise complaints about the premises and noise abatement notices have been served. This was prior to the development being in place, although one complaint about noise from the tv that is on the solid wall of the pergola is highlighted. However, the tv screen would not of itself amount to development that would require planning permission.
14. It appears from the evidence that the garden has been used for eating and drinking in connection with the public house for several years. However, in providing some cover from inclement weather, the pergola offers the potential to extend the periods in which customers sit outside. Nevertheless, the Council's officer report identifies that the premises are subject to licensing and a condition of the existing licence requires a noise management plan. Paragraph 194 of the Framework states that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Consequently, I have no reason to take a different position to that set out in the officer report, that there are sufficient safeguards within the Licensing Act to reasonably control residential amenity.
15. While there may be occasions when the electric infrared heaters and lighting within the pergola are left on when no customers are present, this would not unacceptably harm the aims of climate change policies to the extent that would warrant withholding planning permission. The separation distances from neighbouring dwellings are such that there would not be unacceptable harm to the living conditions of nearby residents due to light pollution. It is not possible to link the highlighted instances of anti-social behaviour to the development. Rather, they seem to be related more to premise management.
16. None of the other matters raised alter or outweigh my conclusions on the acceptability of the development.

Conditions

17. A condition to require the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.

Conclusion

18. For the reasons given above, having considered the relevant material considerations, I conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR