



## Appeal Decisions

Site visit made on 5 March 2024

by **C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

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### Appeal A Ref: **APP/K0940/W/23/3329258**

#### **7 Fountain Street, Ulverston LA12 7EQ**

- 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 Mr Christian Turner against the decision of Westmorland and Furness Council.
  - The application is Ref: SL/2023/0520.
  - The development proposed is described as "demolition of existing garage and construction of a new dwelling".
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### Appeal B Ref: **APP/K0940/Y/23/3329262**

#### **7 Fountain Street, Ulverston LA12 7EQ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Mr Christian Turner against the decision of Westmorland and Furness Council.
  - The application is Ref: SL/2023/0521.
  - The works proposed are described as "demolition of existing garage and construction of a new dwelling".
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### Decision

1. Appeal A and Appeal B are dismissed.

### Preliminary Matters

2. The appeal site is part of the walled garden area and separate single storey garage building located to the rear of 'No 7 Fountain Street', a Grade II listed building. Alongside No 7, the appeal site falls within the setting of other listed buildings, namely 'Church Walk House and attached wall and railings', 'Nos 9 and 11 Fountain Street' and 'No 13 Fountain Street'.
3. From the submitted evidence and my site observations, I am satisfied that the existing garage is covered by the same statutory protection for listed buildings as No 7. Furthermore, the 'Ulverston Conservation Area' covers both the appeal site and its setting.
4. The proposed development comprises the demolition of the existing garage building and construction of a new dwelling with associated rear garden and parking. The proposed works relate to the same scheme, although owing to the different legal regimes there are differences in the scope of the planning appeal (Appeal A) and the listed building consent appeal (Appeal B). To avoid any repetition I have dealt with both appeals within a single decision letter. However, despite what is cited on the Council's decision notice, the scope of my determination of Appeal A extends only to the effect on the character and

appearance of the conservation area and highway safety and the scope of my determination of Appeal B extends only to listed building matters. In making my decision, I have exercised my statutory duties in respect of the relevant sections of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

5. Although the Council has cited Policy CS1.2 of the South Lakeland Local Development Framework Core Strategy (the Core Strategy) in reason for refusal No 1, this policy is not relevant to the specific heritage objection raised by the Council. Furthermore, Policies CS1.1 and CS1.2 of that plan that are cited in reason for refusal No 2 are not relevant to the specific highway safety objection raised. Nonetheless, in making my overall determination I have assessed the scheme against the other policies cited on the decision notice and with the development plan as a whole.
6. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Although I have made my determination against that updated national policy context, the relevant changes relate to formatting and do not raise any new matters which are determinative to the outcome of this appeal.

### **Main Issues**

7. The main issues are whether or not the appeal proposal would:
  - preserve the setting and features of special architectural or historic interest of the host site, No 7 Fountain Street and also 'Church Walk House and attached wall and railings', 'Nos 9 and 11 Fountain Street' and 'No 13 Fountain Street'.
  - preserve or enhance the character or appearance of the Ulverston Conservation Area; and
  - the effect on the safety of users of the highway.

### **Reasons**

#### *Special interests and setting of listed buildings*

8. The appeal site is located to the rear of No 7 Fountain Street, a former dwelling, now dental surgery. A series of offshoots are connected to the main rear elevation of that property. These form part of the surgery and also living accommodation which faces directly onto an existing walled garden. At the end of that fully enclosed grassed area is the rear elevation of a single storey garage building which is served by a narrow road beyond known as Back Lane.
9. The appeal scheme comprises the demolition of the existing garage building, the erection of a 2 storey dwelling and the provision of a rear private garden as well as associated hardstanding to one side, underneath part of the proposed first floor and not dissimilar to a 'porte cochere'.
10. The existing garage building and portion of the walled garden area that would be developed comprise a significant portion of the historic plot of No 7. As such, the appeal site forms part of the immediate setting of No 7 Fountain Street.

11. The special architectural and historic interest features of No 7, a Grade II listed building are derived from its value as a generously sized late 18<sup>th</sup> century 2 storey, mid-terraced house with an attic and basement. These interests include its double depth plan with a symmetrical 5-bay façade which reached from an external landing served from Fountain Street by 2 flights of steps; and its painted roughcast render walls, painted ashlar dressings and slate roof.
12. The garage is a subsequent 20th century addition. It has a slightly irregular shaped footprint which provides a simple snug fit between the buildings which flank it and reflects the organic development which has occurred along this lane and respects the historic functional relationship between Back Lane and No 7.
13. From my site observations and the submitted evidence, there is no basis for me to dispute the appellant's evidence which assesses the main building of No 7 to have 'high' evidential, historic, aesthetic and communal value. I also concur that the existing garage building has 'low' historic and aesthetic values by virtue of the combination of its age, design and construction.
14. The existing rear garden area is enclosed on all sides and, as such, it is a highly intimate and secluded area which historically would have provided respite from the activities taking place within the central core of this historic market town. This plot layout is reflective of the historic functional and amenity needs of the past occupants of No 7. Historic views from windows in the rear elevation of No 7 to that generous undeveloped space remain intact, enabling the continued appreciation of that role. I therefore do not concur that the historic and aesthetic values of the undeveloped garden area are 'low'. I also disagree that the communal value of both is 'negative'; rather at the very least I find it to be of neutral value in that regard.
15. From the submitted evidence and my site visit observations, it is evident that the wider setting of this listed building has changed over time, including by the construction of the garage building and other backland development along the rear lane. Nonetheless, the appeal site remains an important focal point to the rear of Fountain Street in terms of the sense of enclosure and access to the rear of properties along Back Lane. The land to which the appeals relate remains integral to the appreciation of this building's historic interest within its wider historic commercial market town setting.
16. Although the garage is a later addition, its intended function nonetheless reinforces the historic servicing arrangements to No 7 that have continued to be enjoyed from Back Lane. Furthermore, the subservience of the existing garage building in terms of its scale, positioning and use continues to allow the historic connection between the appeal site and No 7 to be discerned from both within the grounds and from the rear lane.
17. The surviving generous historic plot layout of No 7 features heavily in the outward historic views from its interior. This rear view is framed by the prevailing traditional built fabric and some surviving historic plot layouts of neighbouring properties. This setting enables the continued appreciation of how historically properties within the commercial heart of this traditional market town, including No 7, were occupied and functioned.
18. In order to accommodate a 2 storey dwelling and the laying of associated car parking and a rear private garden, the proposed scheme would necessitate the

demolition of the existing garage. Furthermore, it would cause the subdivision of the existing plot. The proposed 2 storey dwelling would be far greater in footprint and height than the existing single storey garage building.

19. The appeal proposal would not harm any of the special architectural interests of the main building of No 7 itself. The loss of the existing garage building is not in itself objectionable despite its association with the main building in view of its very limited heritage credentials.
20. Significantly, however, the proposed subdivision and fragmentation of the historic plot would substantially reduce the outdoor space that has until now been associated with No 7. This would dramatically change the immediate setting of No 7 and how the special interest features could continue to be experienced from public vantage points to its rear and also from more immediate vantage points within both its interior and remaining outdoor area. Furthermore, the appeal scheme would also sever the historic functional link of No 7 with Back Lane which also forms part of its historic interest.
21. For these reasons, the erection of the proposed dwelling within this historic plot would adversely affect the setting of listed No 7. This would be harmful to its special historic interest.
22. In having special regard to the desirability of preserving this listed building and its setting, and any features of special architectural or historic interest which it possesses, I find that the demolition of the existing garage and the erection of the proposed dwelling would fail to preserve its setting and, in doing so, would detract from the special historic interest of No 7 Fountain Street. This would be harmful and would not accord with the Act. In terms of the Framework, this would amount to less than substantial harm.
23. In view of the close relationship of this historic plot layout with the remaining Grade II listed buildings comprising Church Walk House and attached wall and railings, Nos 9 and 11 Fountain Street and No 13 Fountain Street, the proposed building would not preserve the setting of those designated heritage assets. In view of my findings on the effect on No 7, it serves no favourable purpose to the appellant in me making any further individual assessments of the effect of this change on the special architectural or historic interests of these neighbouring listed buildings.
24. In line with the Framework any harm to, or loss of significance of a designated heritage asset from its alteration or destruction, or from development within its setting should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. For the purposes of determining Appeal B, I return to whether that harm is justified later.

#### *Character and appearance of the conservation area*

25. The character and appearance of this part of the Ulverston Conservation Area includes the narrow width of its streets in relation to a general loftiness in its buildings which creates a well-defined linear space, a marked sense of enclosure and an attractive pedestrian scale.
26. Building lines here are mostly continuous but noticeably irregular, with fluctuating building widths and heights, due to the differing plot sizes and a

markedly vertical emphasis to many of the elevations. The intricacy created by this juxtaposition of tall buildings with pronounced gables, some with accentuated verge treatments, and other, lower buildings that possess more conventional, axial roof lines, helps to fashion a distinctly complex local slate roofscape.

27. No 7 and its historic spacious plot layout are reflective of the architectural, historic and cultural significance of the Ulverston Conservation Area which have strongly influenced its important character and appearance.
28. The submitted evidence does not indicate whether the garage in question replaced earlier buildings. Its slightly irregular shaped footprint between the buildings which flank it reflects the organic development which has occurred along Back Lane.
29. I observed that by virtue of its design, construction and vintage, the existing garage building has a positive contribution to this area insofar as it reinforces the sense of enclosure and intimacy from the predominantly built up frontage of the rear lane.
30. The proposed positioning of the proposed new home to the rear of Fountain Street would be generally reflective of several existing dwellings that line Back Lane and would reinforce the high sense of enclosure here. Therefore, subject to that important sense of enclosure being appropriately maintained, the loss of the existing garage building itself would not be harmful to the character or appearance of this conservation area.
31. Nonetheless, the appeal proposal would result in the subdivision and fragmentation of this historic plot. Overall, the proposed scheme would dramatically change the immediate setting of No 7 and how it would be experienced within its heritage context from public vantage points to its rear.
32. The particular contemporary design solution pursued would not sufficiently reflect the traditional character or appearance of its immediate neighbours in Fountain Street. In particular, the combined effect of the proposed flat roof, the fenestration treatment to the side and rear elevations, the porte cochere and the proposed angled frontage would convey an overly contrived design to overcome the constraints of the site. These signify over development of the plot, and the resulting dwelling would not sit comfortably within its predominantly historic context.
33. Overall, this effect would neither preserve or enhance the character or appearance of the Ulverston Conservation Area but would harm it. This would not meet the provisions of the Act.
34. In terms of the Framework, this effect would amount to less than substantial harm. This harm must also be weighed against the public benefits of the proposal. I afford considerable importance and weight to this harm. For the purposes of determining Appeal A, I return to whether that harm is justified and the accordance or otherwise of the proposal with the development plan later.

### *Highways*

35. The appeal site would be accessed directly off Back Lane which runs down the rear of properties on Fountain Street. This narrow street has no footway. The site access would be located close to the junction of that lane with Church Walk, a 2-way street. Visibility at that junction is somewhat restricted by the buildings and high boundary wall to the rear of Church Walk House.
36. The appellant asserts that the proposed parking provision for the new dwelling will be a significant improvement to the existing provision. Indeed, the scheme would provide 2 No useable parking spaces within the appeal site to serve the new dwelling. Furthermore, visibility on approach to the site from Church Road would not be lessened.
37. However, although there would be a net increase in the number of useable parking spaces, the appeal proposal would result in the loss of the only on-site car parking provision currently associated with No 7. Visibility from the appeal site itself would be restricted by the surrounding built form. No turning space would be provided within the site. By the appellant's admission, these parking arrangements would not meet current standards in terms of visibility and in their view pose a limited impact on highway safety.
38. The proposal would represent an intensification of useable parking provision here. During my site visit I assessed that if a vehicle were to emerge from the existing garage it would have no option but to emerge slowly to navigate its way through the narrow doorway. Such a manoeuvre would be sufficiently noticeable to other approaching users of the highway, not least because this is clearly a garage building and the open doors would be sufficiently apparent to oncoming vehicles in either direction.
39. However, the same would not be sufficiently true of vehicles exiting the proposed port cochere. Significantly, given the absence of internal turning space there would be an increased likelihood of a greater number of vehicle movements from the site occurring in a reverse gear in an instance where visibility in both directions would be restricted by the neighbouring built form.
40. This is not a matter which could be reasonably controlled through the imposition of a planning condition. It has not been clearly demonstrated that the appeal proposal would not pose a greater potential the safety of users of the highway to be prejudiced.
41. In conclusion to this main issue, I find that the appeal proposal would have a harmful effect on the safety of users of the highway.
42. Policy CS10.2 of the Core Strategy requires that proposals provide for safe access on foot and private vehicle and be capable of being served off a safe access to the highway network without detriment to the amenity and character of the area.
43. Policy DM1 of the South Lakeland Local Plan Development Management Policies Development Plan Document (the DPD) requires that the proposal is capable of being served by safe access to the highway network without detriment to the amenity or character of the locality. Policy DM2 of the DPD states that proposals should deliver layouts that are satisfactory in terms of means of access for all.

44. Therefore, in terms of Appeal A, in view of my findings the proposal would conflict with those policies.

### **Heritage Balance**

45. In the context of paragraphs 206 and 208 of the Framework, the appellant has drawn my attention to a number of public benefits of the proposed scheme. The proposed scheme would make a small contribution to the housing land supply for the area which carries significant favourable weight. The proposed scheme would intensify and represent the more effective use of the appeal site which each carries moderate favourable weight. I accept that this scheme would provide some physical improvements to the fabric of the appeal site which would be experienced from surrounding public vantage points. However, it is a responsibility of any owner to maintain their listed building and I attribute limited weight to that as a public benefit. The sustainability credentials of the proposed scheme in terms of its energy efficiency and accessibility are expectations of any scheme and so carry only very limited weight as public benefits.
46. In view of the harm that I have found the setting of the listed building and character or appearance of the conservation area, I do not accept the proposed design would be a public benefit. In view of my findings, neither would the proposal be beneficial to the public in highway terms. The fact that there is no opposition in respect to other technical matters is of neutral consequence to my assessment.
47. I afford considerable importance and weight to the identified harms to No 7 Fountain Street and to the Ulverston Conservation Area. In doing so, I find that the public benefits of the proposed scheme would not outweigh the harm that would arise to either of those important designated heritage assets.
48. Policy CS1.1 of the Core Strategy sets out the sustainable development principles for the area which includes the need to safeguard the essential character and appearance of those buildings and sites that make a positive contribution to the special architectural or historic interest of the area and; ensuring that a high quality, localised and appropriate design is incorporated into all developments to retain distinctive character and sense of place and enhance the existing built environment. Policy CS8.10 of the Core Strategy requires the siting and design of proposals to be of a character which maintains or enhances the quality of the townscape and, where appropriate be in keeping with the local vernacular tradition. Designs should incorporate layouts that reinforce specific local distinctiveness.
49. Policy DM1 of the DPD seeks to maintain, protect and promote the area's historic qualities amongst other things and requires that proposals respond appropriately to the local context, character and distinctiveness. Policy DM2 of the DPD set out the means by which the characteristics and qualities of the area are to be maintained and enhanced. In particular, it requires that amongst other things proposals make a positive contribution to the overall sense of place of the locality; being informed by the historic context of the site, historic street patterns and plot boundaries. This policy requires that sufficient space is provided by creating adequate separation distances with any heritage assets, taking into account local character and characteristics. Furthermore, Policy DM3 of the DPD seeks to protect and enhance the valuable historic environment

including all designated heritage assets and their settings and sets out the approach to achieve this.

50. These policies are consistent with the approach to the historic environment set out in the Framework. In view of the identified heritage harms, the proposed scheme would conflict with all of those policies.

### **Planning Balance**

51. In terms of Appeal A, the appeal scheme would not preserve or enhance the character or appearance of the Ulverston Conservation Area but would harm it. There are no compelling public benefits which would outweigh that harm. Furthermore, the appeal scheme would cause harm to highway users.
52. In terms of Appeal B, I find that the proposed scheme would harm the special interest features of No 7 Fountain Street because it would not preserve its setting, which is a fundamental part of understanding its historic development and function. There are no compelling public benefits which would outweigh that harm.
53. In view of the nature and scale of the identified policy conflicts, I find that the proposed new dwelling would conflict with the development plan when taken as a whole, as well as with the Framework. Although I have identified that some benefits would arise, having regard to the scheme as a whole and the harm which would be caused, these would not outweigh that conflict with the development plan.

### **Conclusion**

54. For the reasons set above and having had regard to all matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

*C Dillon*

INSPECTOR