



Appeal Decision

Site visit made on 8 July 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal Ref: APP/U2750/W/24/3339420

Land to the rear of 36 York Place, Harrogate HG1 5RH

- 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 Antony Rosindale against the decision of North Yorkshire Council.
 - The application Ref is ZC23/02559/FUL.
 - The development proposed is erection of 3 bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted 2 revised plans for the appeal¹. The Council considers that parties would be prejudiced if I were to accept these, as they have not undergone consultation, and multiple objections were originally received.
3. However, the extent of the revision is to reposition the northern boundary line slightly further northwards. This would reflect the title plan and amend an error on the previous plan versions whereby this did not extend up to the existing fenceline of the neighbouring property. The location plan red line site boundary remains the same². No additional built form is proposed in this increased area, such that in practice there would be no harm caused as a result. In accordance with the Holborn Studios Ltd 2017 judgement, I therefore find that accepting this plan as the basis for my determination meets the substantive and procedural tests, whereby no parties would be prejudiced in the interests of natural justice.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, with particular regard to the preservation or enhancement of the Harrogate Conservation Area and the setting of the non-designated heritage asset of No. 36 York Place; and
 - the living conditions of the occupiers of Flat 1 and Flat 2 of No. 36a York Place, with particular regard to overshadowing and outlook.

¹ Existing Site Plan 036/01(02)002-Rev A; Proposed Site Plan 036/01(02)010-Rev B

² 036/01(02)001

Reasons

Character and Appearance

5. The site lies within the Harrogate Conservation Area (CA), and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Section 16 of the National Planning Policy Framework ('the Framework') (2023) also requires great weight to be given to the conservation of designated heritage assets.
6. Policy HP2 of the Harrogate District Local Plan 2014 – 2035 (LP) (2020) aligns closely with this approach, and together with Policy HP3, requires protection or enhancement of those elements which make a positive contribution to the character and special architectural or historic interest of a CA, and that development should incorporate high quality design that protects or enhances those characteristics, qualities and features that contribute to local distinctiveness.
7. The significance of the CA derives from its grand Victorian architecture that defined the commercial expansion of Harrogate and the popularity of its bathing facilities, aided by the introduction of the railway. Key CA characteristics contributing to the town's overall image are the high density of its architecturally impressive historic buildings, the predominance of coniferous sandstone and slate, and the building heights of 2-3 storeys plus attic rooms.
8. The Harrogate Conservation Area Character Appraisal (CACA) (2010) identifies the site lies within 'Character Area A: Town Centre, Low Harrogate, and the Victoria Park Estate.' The CACA refers to a varied mix of uses and building types, including historic terraces and villas, plus more modern developments. The majority have ornate detailing, adding a wealth of interest to the street-scene. The appeal site is accessed off a shared private road off York Place, a straight road reflective of the 19th century planned development of the town. York Place hosts an attractive set of richly detailed and imposing detached villas, semi-detached houses, and short terraces, generally concealing gardens and development to the rear.
9. The Framework Paragraph 209 also requires the effect on the significance of a non-designated heritage asset (NDHA) to be taken into account. No. 36 York Place is a NDHA, being a locally listed subdivided large and elegant Victorian villa. Taller and closer to the road than the adjacent terrace row, it has a rectangular footprint and generally balanced proportions with a protruding tower. Its significance lies in its architectural grandeur and detailing, its role in framing York Place and the open space of The Stray, and in contributing to the understanding of the town's historical development. As such, it clearly makes a positive contribution to the character and appearance of the CA.
10. This positive contribution includes its garden land to the rear, which encompasses the appeal site. Such rear gardens or sub-divided plots are characteristic of the 19th century development of the York Place frontage properties. They included outbuildings and ancillary buildings such as stables and coach houses, which partly formed boundaries to individual plots, or were accessed directly from the long driveways. More recent development predominantly reinforces this character and grain of the historic form, albeit some is lacking architectural respect and so contributes negatively to the CA.

11. The CACA identifies that open spaces which contribute to the Character Area include both public and private spaces. The appeal site is not specifically identified as a space which holds importance, or contributes to important views. However, I do not find the CACA cited list of spaces to be exclusive. The view across the site from Princes Villa Road has had a long historical continuity, albeit modified from its original form. At close range it has been constrained by framing of modern buildings, parked cars, and a wooden fence, and beyond the appeal site it incorporates various outbuildings, extensions, and the very modern form of No. 35a York Place to one side. The retention of the remaining view is therefore important.
12. The site provides a sense of spatial openness as it allows a relatively long range view from Princes Villa Road across and above the height of its boundary walls in this densely built up area. This also encompasses views of several tree canopies, again valuable in the urban environment and intimating the presence of the rear gardens of the frontage dwellings. This spaciousness is less obvious from York Place, with a strong backdrop of built form, but is still apparent. Although historic views through driveway gaps from York Place would not have been expansive, there is nothing before me suggesting that the appeal site was enclosed or incorporated built form to a greater extent than at present.
13. Although from ground level there is no visibility into the site as a green open garden, the upper floors of the multiple surrounding properties gain such views. The historic relationship as the garden setting to No. 36 York Place is evident, and so the site holds inherent value and contributes positively to experiencing and appreciating the significance of the CA.
14. However, some amenity space would still be retained immediately adjacent to No. 36, and development within the appeal site would in general maintain the historic pattern of rear plot development. I note the Conservation Officer comments relating to the previous application³, which do not highlight an in principle objection to a dwelling on the site. I also note that the Council has not identified any restriction requiring it to remain with a grassed surface. I therefore accept that some built form may be appropriate within it.
15. The proposal is for an L-shaped, part single and part 2-storey dwelling using the CA traditional materials of stone and slate. The 2-storey element would appropriately reflect the character and proportions of a coach house. The Council does object to the amount of glazing in the single storey element, as incongruous alongside the coach house style and No. 36. However, this would be enclosed by the boundary walling and only visible in very limited views, reduce the impression of overall massing, and reflect the much more prominent glazing on the adjacent recent dwelling at No. 35a York Place.
16. The design would also incorporate varying roof forms, but individually none would be unusual for a traditional dwelling. In the context of the variety of roof forms within the immediate vicinity, and the dominating height and grandeur of No. 36, I do not find that the roof in totality would be unduly distracting or detrimental. I note the interested party objection to the demolition of sections of the original boundary wall, but this would be minimal in the context of the whole length of wall, and in the legibility of the proposal as a whole.

³ 22/02350/FU

17. The Council considers that the development's form, scale, and position proximate to the boundaries would dominate the site, and result in cramped overdevelopment. I do find this aspect to be a finely balanced judgement, as it cannot be entirely divorced from its impact on openness and views overall, which I discuss and find harmful below. However, the coach house and L-shaped form to a large extent follow historic design cues, and the proximity to the boundaries would mirror the surrounding historic pattern. The built form to plot ratio would allow for sufficient amenity space and legibility of the dwelling as a whole, and again would reflect the relatively small scale of open amenity areas in the immediate and wider surroundings. In and of itself, I therefore do not find the plot design would be unduly cramped.
18. However, from Princes Villa Road, the single storey roof of the proposed dwelling would rise some height above the boundary wall at close range. This massing would feel relatively significant, especially in conjunction with the higher obliquely viewed massing of the coach house element. I acknowledge that the side façade of No. 35a York Place is a blank expanse of render, which the proposed dwelling would block with more traditional materials, but No. 35a is viewed on the oblique and further away. Moreover, this building's interesting front articulation can be appreciated from Princes Villa Road, and it is also only noticeable in partial public views from this direction.
19. Therefore, the proposal would reduce the spatial quality between buildings, and largely block the sense of openness across the site, including from the loss from view of several tree canopies. There would therefore be a harmful impact on the historical understanding and experience of the collection of rear plots and sub-divisions, and the historic view across these. This would directly impact upon the significance of the CA, and the setting of the NDHA.
20. The view from York Place does incorporate a modern garage with a corrugated roof, but my site visit did not identify this to be especially noticeable or create a poor-quality view, due to its distance, single storey form, and the bookend of the historic building behind. Although the appellant considers the architectural quality of that building's conversion to be poor, again this is not especially apparent from York Road. It is itself framed by the roof level massing of a Victorian terrace on East Park Road, which while incorporating modern box dormers, does form an overall historic culmination to the view.
21. The contemporary form of No. 35a York Place only becomes apparent along the access road, and is not viewed within the same immediate context of the NDHA. Although the proposed coach house element would be a traditional form and comprise more appropriate materials than No. 35a and the garage, its 2-storey massing at closer distance would almost entirely block the buildings behind, and so result in an untoward visual closure. Again, this would directly impact upon the significance of the CA, and the setting of the NDHA. In closer range views its massing would be even more substantial.
22. Overall, there would be moderate harm to the character and appearance of the area, and limited harm to the setting of No. 36 York Place as a NDHA. I recognise that the proposal's impact on the significance of the CA would be localised, as did the Inspector for the previous appeal on the site⁴. However, this would be less than substantial harm to the significance of the CA as a designated heritage asset, to which the Framework paragraph 205 requires

⁴ Reference APP/E2734/W/22/3309601; 3 bedroom dwelling dismissed January 2023.

that I give great weight. Insofar as the proposed development would cause harm to these heritage assets, it conflicts with the LP Policies HP2 and HP3.

23. Policy HP2 also directs that harm to a CA should be clearly justified and outweighed by the public benefits of the proposal, and that harm to a NDHA should have benefits sufficient to outweigh the harm. The Framework paragraphs 208 and 209 similarly identify that harm to a CA should be weighed against the public benefits of the proposal, and that a balanced judgement will be required in relation to a NDHA, having regard to the scale of the harm and its significance. I shall therefore address this in the Planning Balance section.

Living Conditions

24. The Council identified that there would be no potential harmful impact to living conditions for properties to the east, south, and west. Based on the relative heights of the proposed elevations and the separation distances, I see no reason to find otherwise. However, the 2-storey massing of the coach house element would be close to the private garden area serving Flats 1 and 2 of 36a York Place. That garden is already partly overshadowed, and its small size constrains the use of unaffected areas. As such, it has particularly high sensitivity to any development orientated to the south east.
25. The equinoxes provide generally representative shadow conditions as a yearly average between summer and winter. The 'Updated Shadow Assessment Rev A' (April 2024) identifies quarterly shadow conditions. The assessment states that the diagrams show there would be a negligible effect upon overshadowing to the Flats 1 and 2 garden space throughout the year.
26. The garden benefits from nearly full sunlight throughout the day on the summer solstice, and is fully shaded on the winter solstice, which the appeal proposal would not affect.
27. However, on the Spring equinox, the garden is currently in approximately half shadow at 0900, no shadow at noon, and in half shadow at 1500. The proposal would result in an increase to nearly full shadow at 0900, and nearly half shadow at noon. The new dwelling would cause no additional shadow at 1500, but the garden would remain half shadowed. The diagrams show very similar for the Autumn equinox. As such, this is a relatively significant increase in shade, and would also result in approximately half the garden being in shade throughout the day. I find that this would therefore be an unacceptable impact.
28. The proposal would be sufficiently distant from the windows of Flat 1 and Flat 2 of No. 36a York Place, such that internal outlook from their internal spaces would not be affected. However, and again due to the small size of the garden which is already somewhat enclosed on 2 sides by 2-storey dwellings, the addition of another tall façade close to the garden boundary would be overbearing. As such, it would unduly harmfully affect outlook from the garden.
29. Overall, the proposal would cause harm to the living conditions of the occupiers of Flat 1 and Flat 2 of No. 36a York Place, with particular regard to overshadowing and outlook. It would conflict the LP Policy HP4 which seeks to protect residential amenity, an objective shared with the House Extensions and Garages Design Guide Supplementary Planning Document (2005), and the Framework paragraph 135 which seeks a high standard of amenity for existing and future users.

Other Matters

Public Benefits

30. The proposed dwelling is identified as a self-build project, and so gains general support from the Framework paragraph 70. The Council also accepts that it has a shortfall in the delivery of self and custom build plots, and a duty to meet the demand for self and custom build housing. The LP Policy HS3 refers to the provision of self-build plots being on strategic sites, but the Council identifies that small windfall sites will continue to play a role in supply.
31. However, no mechanism has been submitted which would ensure that the dwelling would be a self-build plot under the legislative requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended). As such, I give the benefit of self-build only very minimal weight in support. Even were such an agreement able to be secured, on the evidence before me I find the provision of a single self-build dwelling in this location would only represent a limited public benefit. That the proposed dwelling would meet the appellant's needs, is only a private benefit.
32. The Framework seeks to significantly boost the supply of homes, with paragraphs 123 and 124 providing support for the development of windfall sites and the effective use of land. An additional house in this sustainably located area is therefore a public benefit of the proposal. However, it has not been suggested that the Council is under its housing land supply target, and a single dwelling would only be a very small-scale contribution. This benefit therefore attracts limited weight. There would also be small-scale local social and economic benefits from construction, and from the local expenditure and tax revenue by the additional residents, to which I also give limited weight.
33. The appellant suggests that the proposal would incorporate sustainable features and result in a lower energy demand, thereby benefiting the environment. Notwithstanding that such is to be expected for the majority of new dwellings, I give this benefit limited weight in favour.

Other Points

34. Previously refused schemes are not fallback positions, and so it is not a benefit of the proposal that its reduced scale would cause less harm.
35. I note the appellant's concerns regarding the lack of formal consultee response from the Conservation department, and the delays caused by requested design amendments which were subsequently still not supported. However, I have assessed the proposal on its planning merits and on the evidence before me.

Conclusion

36. Overall, the great weight to which I give the less than substantial harm to the CA, and the moderate weight to which I give the limited harm to the setting of the NDHA, would not be cumulatively outweighed by the proposal's public benefits identified above. It would therefore not preserve the Harrogate CA, or the NDHA setting of No. 36 York Place, and would also cause moderate harm to the character and appearance of the area.
37. The proposal would therefore conflict with the LP Policies HP2 and HP3. It would also conflict with the need to achieve well-designed places as set by the

Framework paragraph 135, and its section 16 on conserving and enhancing the historic environment.

38. In conclusion, the development conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR