



Appeal Decision

Site visit made on 3 March 2025

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/U2750/W/24/3356781

The Old Chapel, 42 Manor Road, Scarborough, YO12 7RT

- 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 Steve Kirk against the decision of North Yorkshire Council.
- The application Ref is ZF24/01110/HS.
- The development proposed is use of areas with ancillary residential use to habitable residential use, installation of roof lights to roof, installation of PV panels to roof, adaptations to existing roof to form extension, and balustrading to flat roof to form roof terrace.

Decision

1. The appeal is allowed, and planning permission is granted for change of use of areas with ancillary residential use to habitable residential use, installation of roof lights to roof, installation of PV panels to roof, adaptations to existing roof to form extension, and balustrading to flat roof to form roof terrace, at The Old Chapel, 42 Manor Road, Scarborough, YO12 7RT, in accordance with the terms of the application, Ref ZF24/01110/HS, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading and decision above is taken from the application form. It is apparent from the drawings and documents submitted, that in addition to making alterations and extensions to the upper floors to create a large dwelling flat, it is proposed to sub-divide the remainder of the building (the ground floor and basement rooms) which are currently used for ancillary residential storage purposes, to create three guest bedrooms with ensuite bathrooms for use as short-term holiday letting rooms. I have determined the appeal based on the plans and information submitted.
3. The reasons for refusal in the Council's decision notice all relate solely to the PV solar panels. Part 14, Class A, of the General Permitted Development Order (GPDO) permits the installation of solar PV equipment on a dwelling or block of flats, including on a roof that faces a highway in a conservation area. Class J permits the same on non-domestic premises. I note that part of the chapel is in use as a dwelling flat and that planning permission was granted for change of use from redundant Chapel to residential use in 1993. The Council has provided me with a copy of the 1993 decision notice, and whilst I have no evidence to confirm whether or not this planning permission was lawfully implemented, it did include a condition that prevented any alterations to the external appearance of the building from being made without the express written approval of the local planning authority. I have therefore dealt with the appeal on the basis that planning permission is required for the PV panels.

4. In addition to the Council's objections relating to the PV panels, concerns were raised by the Civic Society in relation to the proposed extension and roof terrace.

Main Issues

5. The main issues are the effect of the development on the character and appearance of the building and the Dean and Manor Road Cemetery Conservation Area (CA).

Reasons

6. As the appeal site lies within the CA, I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. The CA is unusual in that it covers a large cemetery, divided into two areas by a road, and comprises very limited built development. Having regard to the Conservation Area Character Appraisal (CACA), the significance of the CA derives from its historic interest, and the architectural and historic interest of the buildings and structures within it, together with its planned layout and landscaping.
8. The appeal site comprises an old chapel, which is currently in use as a dwelling flat on the upper floors with ancillary residential storage space below. The chapel, together with the adjoining cemetery lodge, was designed by local architect Frank Tugwell and was completed in 1902. It is built in red brick under a steeply pitched plain red clay tiled roof and has an apse to the rear. It has a stone trim to the door surrounds, windows, gables and other features and displays gothic with arts and crafts design influences. The former chapel is not listed but is a prominent and attractive building which makes a positive contribution to the CA. It is also identified as a significant building in the CACA.
9. No objections have been raised to the proposed use of the building as a residential flat and for short-term holiday letting purposes. Nor have any concerns been raised to the installation of four small conservation style roof lights in the north facing roof slope. I have no reason to reach a different view on these matters. Whilst the proposed basement guest room would be quite small and dark, it would have a glazed external door and a small, enclosed area of outdoor space behind the basement gates that would provide some natural light and ventilation. Its habitable use for short-term visitor stays would therefore be acceptable.
10. The existing apse at the rear of the chapel is set in from the side elevations of the main building and has a low-pitched roof set behind a castellated parapet wall. It is proposed to raise the height of the apse behind the parapet wall to create additional first floor living space, which would lead out onto a terrace proposed to be created by constructing glass balustrade panels around an existing flat roof above the side entrance. The clear glass balustrading would be modest in scale and being transparent and situated on a small rear corner of the building, it would not result in any harm to the architectural integrity of the building. Raising the height of the apse would reduce its subservience, and increase its visibility, particularly as the eaves height of the raised roof would be above those of the main building and the ridge height would be level with it. Although the materials of the wall and roof would match the existing building, the proposed rectangular aluminium framed windows and door, with no inset or stone trim, would not reflect

the style, and materials used in the original openings in the building. Whilst I acknowledge the rear of the chapel is not highly prominent in the Manor Road street scene, the increased height of the apse would be visible in short distance views, in the small frontage gap between the chapel and the lodge, as well as from footpaths within the cemetery CA. The increased height and design of the apse extension would therefore detract from the architectural integrity of the building, which would diminish the positive contribution that it makes to the appearance of the CA, albeit to a very limited extent.

11. The proposed PV panels would be located on the southern roof slope of the building, which rather than facing into the cemetery and wider CA, faces the busy main road, substantial housing development and some small commercial units, none of which are of any heritage significance. Despite the roof slope facing the road and thus having a high degree of visibility, due to the orientation of the building, the scale and proximity of the adjoining cemetery lodge building, and the presence of trees within the cemetery that are protected by the CA, the roof is only visible in short distance views from outside of the CA. It is most visible when approaching the site from the south along Manor Road or when opposite it. I noted the presence of other solar panels on roofs facing the CA along Dene Road and Manor Gardens. I have also been provided with plans showing that 4 roof lights may have previously been approved within this road facing roof plane of the chapel, which would have resulted in similar disturbance to the existing roof surface.
12. The Council's case emphasises that *"the proposed PV panels require planning permission due to their location upon the road-facing elevation of a building within a Conservation Area. This mechanism is in place in order to allow the control of suitable development upon the principal elevations of buildings within the conservation area"*. This is not strictly correct, permitted development rights for solar panels on buildings in conservation areas are only removed for road facing walls, not road facing roofs, in recognition of how important tackling climate change is. However, I acknowledge the points made by both parties, that the solar panels on nearby houses were permitted development, outside the control of the Council and are outside of the CA, but the proposed PV panels on the chapel would nevertheless be viewed in the same street scene as those on Manor Gardens.
13. The Council has expressed concerns relating to the removal of historic tiles. However, tiles have a limited lifespan and there is evidence that the existing tiles are already damaged and in need of replacement. The type of tiles used on the appeal building are very common, are readily available and could be easily replaced. Tiles removed to make way for the roof lights and PV panels would be reused for repairs elsewhere on the building and replacement apse roof, any remaining tiles of suitable condition could be stored for future use.
14. The panels would be inset into the tiled roof surface, rather than installed on racking above the roof plane. They would be arranged symmetrically and evenly within the roof slope, leaving a generous surrounding of tiles and would be clearly distinguishable from the historic fabric of the original building. The panels, which have a limited lifespan and can easily be removed and replaced with matching tiles in the future should they no longer be required, would not cause damage to the roof structure, alter its original architectural form or prevent the original function of the building from being understood.

15. However, I agree that the dark shiny panels would contrast with the surrounding red clay tiles and would detract from the historic appearance of the original building, thus reducing the positive contribution it makes to the historic character and appearance of the CA, albeit again to a very limited extent.

The Balancing Exercise

16. I consider that the extension to the apse and the installation of PV panels would result in some limited harm to the appearance of the building, thereby diminishing the positive contribution it makes to the CA to a limited extent. The harm from this to the significance of the CA as a whole would be less than substantial. Nevertheless, in accordance with paragraph 212 of the National Planning Policy Framework (the Framework), I have attached great weight to the importance of conserving the designated heritage asset.
17. Paragraph 213 of the Framework requires any harm to, or loss of the significance of a designated heritage asset, from its alteration, to require clear and convincing justification. Paragraph 215 states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
18. Planning Practice Guidance recognises that in the case of buildings, the risk of neglect and decay of heritage assets is best addressed by ensuring that they remain in active use. The building is currently only partially occupied. Despite planning permission having previously been granted for a variety of uses, none appear to have been successful in bringing the whole of the building back into a viable long term use. Failure to secure a viable and sustainable use for the whole of the building would inevitably result in the building or parts of it being left unused, and gradually falling into a state of disrepair. I note from the appellants submissions and the CACA that other historic buildings within the cemetery have been left empty and boarded up for long periods of time, which has a negative effect on the appearance of the CA.
19. The proposed alterations and extensions would facilitate the permanent residential use of the upper floors of the building by improving living conditions for the occupiers with regard to natural light and ventilation, heating, improved facilities and easy access to outdoor space. Additionally, the proposal would create three short-term holiday letting rooms, generating an income to secure the upkeep of the building. The installation of PV panels would ensure the development is energy efficient.
20. The appellant has stated that the building ceased operating as a chapel many years ago, has since been used as an annex and ancillary space to the adjacent vicarage, and that previous planning permissions for various uses have not been achievable due to the high running costs of heating and lighting the building. In order for the use of the building for holiday letting to be successful, it must be cost effective to operate and able to compete with other similar accommodation in the area. I have no reason to doubt that the costs of lighting and heating a building of this age, size and nature are substantial.
21. The public benefits of the proposal are that it would bring the whole of the building back into beneficial use, ensuring its long-term maintenance and retention is viable, thereby preserving the historic building and the positive contribution that it

makes to the CA for future generations. Additionally, the proposal would provide a sustainable home and sustainable visitor accommodation, which would contribute to the local economy. The use of PV panels would have a positive impact in terms of localised energy production and a reduction in energy consumption from the grid. The Framework states that the planning system should support the transition to a low carbon future in a changing climate and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

22. The Council has suggested that the building has an existing viable use as a dwelling, albeit the lawfulness of that use was brought into question by the Council when I queried if permitted development rights for solar panels had been removed from the dwelling or the CA. Furthermore, it was evident from my visit that only a small proportion of the building is currently occupied, and a vast amount of work is required to make the remainder of the building fit for habitable use. The building has clearly been underused for many years, which does put it at risk of deterioration and eventual loss.
23. In reaching my decision, I have been mindful of the fact that if no previous planning permissions containing restrictive conditions have been lawfully implemented on the site, then the PV panels could be installed on the building under permitted development rights. I am also mindful of the support and guidance for such development, including on historic and listed buildings, provided by Historic England. The general support for such schemes is demonstrated by some of the recent examples submitted by the appellant.
24. Whilst I attach considerable importance and weight to the harm that would be caused to the building and thus the contribution that it makes to the CA, given the importance of ensuring the building is fully utilised and maintained, and given the increasing importance of renewable energy, I consider that the public benefits that would result from the proposal would outweigh the less than substantial harm that would be caused to the significance of the CA as a whole.
25. I therefore conclude that the proposed development would accord with Policies DEC1, DEC5 and ENV1 of the Scarborough Borough Local Plan July 2017, and with the Framework. Collectively, these policies seek amongst other things to ensure new development follows the principles of good design, including by being energy efficient, conserving elements which contribute to the significance of heritage assets and only permitting development that would harm heritage assets where this is outweighed by public benefits. These policies also support proposals which will help to secure a sustainable future for heritage assets, and support proposals for the development of renewable energy technologies where these would not have an unacceptable impact on the character or appearance of the built environment or historical features and their setting.

Conditions

26. I have imposed the standard time limit and a condition specifying the approved plans in the interests of certainty. A condition to ensure only the approved external materials are used, unless otherwise agreed with the Council, is necessary to preserve the character and appearance of the CA. A condition to ensure the lower floor rooms identified as guest rooms are used for short-term lets only is necessary given their limited space, which would be below the standard required for permanent or long-term residential occupancy.

27. The submitted plans show an ensuite guestroom at basement level. The appellant disputes that this was intended to form part of the residential flat on the upper floors, as suggested by the Council, and it is unclear why that would be the case. Despite its size, I consider the basement room would be adequate for short term use and there is no evidence before me to explain why this would not be the case. Accordingly, a condition to restrict the basement room to incidental residential use is not necessary. The Council suggest a condition to remove the solar equipment at the end of its life or use would not be enforceable. However, the same condition is set out in the GPDO and I consider this reasonable and necessary to ensure the roof is appropriately restored in the future.

Conclusion

28. For the reasons given above, the appeal is allowed.

R. Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: 04102 Rev.P04, 05201 Rev.P04, 05202 Rev.P04, 05251 Rev.P05, 09101 Rev.P02 and 09103 Rev.P05.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing nos. 05201 Rev.P04 and 05202 Rev.P04.
- 4) The units of accommodation on the ground floor and basement/crypt floor, identified as guest bedrooms 1, 2, and 3 on the approved drawings, shall be occupied as short-term visitor accommodation only. For the purposes of this condition, short-term visitor accommodation means that the same person(s) shall not be allowed to stay in any of the guest bedrooms shown on the approved plans for more than a total of 28 days in any single calendar year. The guest accommodation shall not be used as the main residence of any occupant. A register of bookings made by persons staying in the guest bedrooms shall be retained by the owner or manager of these and shall be made available for inspection by the Council upon request.
- 5) The solar PV panels and any associated equipment shall be removed as soon as reasonably practicable when no longer needed or used, and the roof surface shall upon removal of the panels be reinstated to its former appearance using tiles to match the remainder of the roof surface at the time.

END OF SCHEDULE