



Appeal Decisions

Site visit made on 12 March 2025

by **H Smith BSc (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2025

Appeal A Ref: APP/D4635/W/24/3354878

47 Queen Street, Wolverhampton, West Midlands WV1 3BJ

- 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 AAJ Property Management Ltd against the decision of the City of Wolverhampton Council.
 - The application Ref is 24/00020/FUL.
 - The development proposed is demolition of rear garage structure and construction of a three-storey building comprising 6 no. serviced apartments (Use Class C1), with associated cycle and bin storage.
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Appeal B Ref: APP/D4635/Y/24/3354879

47 Queen Street, Wolverhampton, West Midlands WV1 3BJ

- 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 AAJ Property Management Ltd against the decision of the City of Wolverhampton Council.
 - The application Ref is 24/00021/LBC.
 - The works proposed are demolition of rear garage structure and construction of a three-storey building comprising 6 no. serviced apartments (Use Class C1), with associated cycle and bin storage.
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Decisions

1. **Appeal A** is dismissed.
2. **Appeal B** is dismissed.

Applications for costs

3. Applications for costs were made by AAJ Property Management Ltd against the City of Wolverhampton Council, and those are the subject of separate decisions.

Preliminary Matters

4. As the proposal relates to a listed building which is within a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
5. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
6. A revised National Planning Policy Framework (Framework) was published in December 2024 after the Council made its decisions. I have had regard to the revised Framework in reaching my decisions.

7. It is common ground between the parties that the rear garage structure on the appeal site is located within the curtilage of the listed building and was constructed before 1st July 1948. As such, by virtue of section 1(5) of the Act it forms part of the listing.
8. The appellant submitted revised drawings with the appeals, which include amendments to the proposal's window designs, roof form and parapet, and a reduction in the height of the building. However, the Procedural Guide sets out that the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage. In deciding whether to, exceptionally, accept the proposed amendments, as per the judgement in *Holborn Studios Ltd v The Council of London Borough of Hackney* (2017), which refined the 'Wheatcroft principles' set out in *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (1982), consideration must be given to the following two tests which must be assessed separately: 1) substantive test; and 2) procedural test.
9. The substantive test is whether the proposed amendments involved a 'substantial difference' or a 'fundamental change' to the application that would ultimately result in a 'different application'. A 'substantial difference' or a 'fundamental change' could also be as a result of a series of small, incremental changes to a scheme. If it is concluded that the amendments would result in a 'different application', then it is unlikely that it could be considered as part of the appeal. The procedural test is whether, if accepted, the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal and, if so, whether such fairness could be cured, for example by re-consultation.
10. In my judgement, the revised drawings show an alternative design that would ultimately result in a 'different application'. As such, the suggested amendments do not pass the substantive test, and I do not accept them. It is also important that what I consider is essentially what was considered by the local planning authority and on what interested parties' views were sought. I am not persuaded that all those who should have been consulted on the proposed revisions to the original scheme have been given the opportunity to review and respond to these changes adequately. If I were to determine the appeals based on the revised drawings, it is possible that the interests of parties who might wish to comment would be prejudiced. As such, the suggested amendments do not pass the procedural test. Consequently, for the avoidance of doubt, I have determined the appeals on the basis of the proposal and plans which were before the Council when it made its decisions.

Main Issues

11. The main issues are whether the proposal would i) preserve the Grade II listed building, or its setting, or any features of special architectural or historic interest which it possesses, and ii) preserve or enhance the character or appearance of the Conservation Area.

Reasons

Special interest and significance

12. The appeal site comprises 47 Queen Street (No 47), and its associated rear single-storey structures. No 47 forms part of a group of terraced properties, Nos 47, 48 and 49, that are designated as a Grade II listed¹ building known as 'Nos 47, 48 and 49 and attached railings, Queen Street.'
13. The listed building dates to the early 19th century and is constructed from red brick with stone dressings with a slate roof and brick stacks. The building is 3-storeys with basement and has a symmetrical design, including classical doorcases and narrow, recessed sliding sash windows.
14. The principal elevation of the appeal property (No 47) fronts onto Queen Street and has first and second floor sill bands, top cornice and a symmetrical range of sash windows. To the rear of the building is a long narrow plot that backs onto Castle Street.
15. Pertinent to the appeals, a large portion of No 47's rear plot comprises a single-storey flat roofed garage building. This building features a brick elevation with concrete lintel and blue concertina doors giving access to Castle Street. Internally the space is completely open plan and includes a considerable steel frame and exposed brickwork. There is also a small courtyard area, and a modern link building constructed mainly from brick that sits between the single-storey garage and the rear of No 47. Although the plot to the rear of No 47 has been altered over time, the subservient nature of these single-storey structures provides clarity in relation to the hierarchy of importance between these rear structures and the principal building fronting Queen Street.
16. The special interest of the listed building is mainly derived from its architectural quality and historic interest as an early 19th century terraced block of houses representative of the style of the time. The formal frontages of Nos 47-49 allow the properties to be experienced, and their heritage merit appreciated. As such, the immediate setting of the asset, also contributes in part to its special interest and significance.
17. The appeal site is located on the northern side of Castle Street and is therefore within the Wolverhampton City Centre Conservation Area (CA). Pertinent to the appeals, the character of this part of the CA is influenced by the numerous 19th century buildings. Queen Street, on which the appeal property fronts, contains a mix of red brick and stuccoed buildings which have a strong linear sense of enclosure created by a back of pavement hard frontage and lightwells enclosed by railings.
18. The area has a layered urban character, with Queen Street serving as the primary thoroughfare and Castle Street functioning as a secondary, supporting street. The northern side of Castle Street has a distinct division, with its western and eastern ends differing in character. The western end is defined by large-scale early 20th century buildings, creating a more imposing and structured appearance. In contrast, the eastern end is characterised by smaller, ancillary structures that are

¹ List Entry Number: 1201861

connected to the buildings on Queen Street, giving it a more modest and functional feel. This contrast in scale and style contributes to the area's architectural identity.

19. Given the above, the character and appearance and thus special interest of the CA, insofar as it relates to these appeals, are primarily associated with the strong, imposing and formal character of the development fronting Queen Street, and the subservient relationship of the ancillary structures to its rear. It also stems from the way the buildings of varying ages and styles reflect the evolution of the city.
20. By virtue of its historic and architectural integrity and authenticity, the Grade II listed building adds considerably to the City's heritage merit. In doing so, it positively contributes to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.

Proposal and effects

21. The proposal would have a smaller footprint than the single-storey garage structure that it would replace. However, it would be considerably taller than the existing garage and would also be taller than the neighbouring ancillary structures. As a 3-storey building at the back edge of the footway, the appeal scheme would be a prominent addition to the street scene. This would result in a substantial solid and imposing structure with a front elevation onto Castle Street.
22. Consequently, the overall scale and massing of the proposed building would be so sizeable as to visually compete with the main building. Rather than appearing subordinate, it would distract from the aesthetic qualities of the listed building.
23. The proposal's design would not replicate the existing architectural features of the historic buildings that remain standing in Castle Street, such as the arched windows and door headers. The elevation fronting Castle Street would also have an unbalanced window arrangement, with smaller windows compressed at second floor level, which would not be in keeping with the listed building's window proportions. It would appear overly busy, with eight small-pane windows creating a high window to brick ratio. This would create a cluttered appearance that would not harmonise with the features on the listed building. In addition, its hipped crown roof and brick parapets would not resemble the existing roof forms along Castle Street, which are generally a mix of pitched and flat roofs.
24. Thus, the proposal would introduce a discordant and prominent feature that would draw attention away from the historic features of the listed building's rear elevation to the detriment of the designated heritage asset. This would undermine the authenticity and integrity of the heritage asset.
25. Even if a two-storey building previously existed on the appeal site, constructing a new 3-storey building would not be appropriate because it would exceed the historical scale and disrupt the established character of the area. The eastern side of Castle Street is defined by smaller, ancillary buildings that support the primary buildings on Queen Street. Introducing a taller, more prominent building would create a visual imbalance, overwhelming the modest nature of the existing ancillary buildings and undermining the subordinate role that these buildings traditionally play. Additionally, the increase in height and massing would alter the secondary, supportive role that Castle Street plays in the area's urban hierarchy.

26. There are other buildings of substance in the locality such as the Express and Star buildings which front both sides of Castle Street to the west, and 36 Pipers Row to the east. However, these other buildings are read in their own contained and design grounds. These elements would not therefore justify the appeal scheme.
27. The appellant argues that the existing garage structure has no architectural or historic interest. Nevertheless, the garage structure is subservient to the listed building, unlike the proposal which would appear prominent due to its overall height and massing. In any event, the presence of the garage structure, which I find has a neutral effect on the listed building, does not justify unacceptable development and works.
28. The materials used for the proposal would be reflective of the materials currently present on the listed building. Nevertheless, a lack of harm in this regard is a neutral consideration and does not weigh in support of the appeals.
29. Taking into account the appeal site's positioning along Castle Street, it follows that the identified negative effects to the listed building would also harm the positive qualities of the CA. In these regards, the proposal would not preserve or enhance the character or appearance of the CA as a whole and thus would harm its significance as a designated heritage asset.
30. Drawing the above together, I find that the proposal would not i) preserve the Grade II listed building, or its setting, or any features of special architectural or historic interest which it possesses, and ii) preserve or enhance the character or appearance of the Wolverhampton City Centre Conservation Area. In doing so, it would harm the significance of these designated heritage assets.

Public benefits and balance

31. With reference to paragraphs 214 and 215 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and fairly localised nature of the proposal, I find that the harm to the significance of the designated heritage assets assessed above would be 'less than substantial' but nevertheless of considerable importance and weight. Paragraph 215 of the Framework requires this harm to be weighed against the public benefits of the proposal, including where appropriate, securing the asset's optimum viable use.
32. In this case, the economic benefits would be delivered through the construction and operation phases, and the general investment into the property. The proposal would make use of a previously developed and underutilised site to provide additional serviced accommodation (Use Class C1) within an accessible city centre location. It would be adjacent to the bus station and near to Wolverhampton railway station and metro stop.
33. The appellant states that the provision of short-term accommodation within the site would contribute towards the availability of visitor accommodation within the City Centre, thereby helping to support the City's cultural facilities, businesses and the visitor economy.
34. Having regard to the objectives of the Framework, these outcomes would constitute benefits that would flow to the public at large and, whilst moderated by the scale of the scheme, carry moderate weight in favour of the appeals.

35. Nevertheless, it has not been demonstrated that the only way of securing these benefits would be via the appeals proposal. Additionally, no substantive evidence is before me which shows that the property would not be usable or viable in its current use or that its future would be at risk if the appeals were to fail and the development and works as proposed were not implemented. In these respects, the identified harm to the significance of the listed building and the CA has not been clearly and convincingly justified as required by paragraph 213 of the Framework.
36. On balance, in giving considerable importance and weight to the harm to the significance of the designated heritage assets, I find that this would not be outweighed by the moderate weight I attach to the public benefits arising from the proposal.
37. I conclude that the proposal would not i) preserve the Grade II listed building, or its setting, or any features of special architectural or historic interest which it possesses, and ii) preserve or enhance the character or appearance of the Wolverhampton City Centre Conservation Area. It would therefore fail to satisfy the requirements of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also conflict with Policies ENV2 and ENV3 of the Black Country Core Strategy (adopted 2011), and the saved Policies HE3, HE4, HE13, HE16, HE17, D7, D8 and D9 of the Wolverhampton Unitary Development Plan (adopted 2006). Collectively, these policies amongst other things, seek to ensure developments preserve and enhance designated heritage assets, including their settings, and incorporates high quality design, promoting the special qualities, historic character and local distinctiveness of the area. Development should make a positive contribution to the locality through the use of appropriate scale, form and good quality detailing.

Other Matters

38. The appeal site is located near to a number of other listed buildings, including 46 Queen Street (Grade II), and the Former Wolverhampton County Court (Grade II*). Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving their settings. From the evidence before me, the special interest and significance of these assets largely stem from their historic and architectural interests, but are also derived, in part, from their urban settings.
39. Given the extent and nature of the proposal, I find that the asset's settings would be preserved and their significance, including the contribution made by their settings, would not be harmed. I note the Council raised no concerns in this respect either.
40. My attention has been drawn to a previous approval at 56 Queen Street (ref: 22/0024/FUL). I do not have the full details of this other scheme before me. However, from the evidence available to me, this approved scheme relates to differently arranged buildings that are set within a different site context to the appeal site. Thus, this other scheme's effects and situation in relation to the CA are not directly comparable to the proposal before me, which relates to a listed building with its own specific characteristics. In any event, I have determined these appeals on their own merits based on the information before me and my own observations of the area.

41. My attention has been drawn to a recently approved scheme at the appeal site. However, this approved scheme² differs from the appeals scheme because it is for a two-storey building and therefore would not be as tall as the proposal before me. Furthermore, the approved scheme has a simpler fenestration pattern and includes arched windows and door headers. As such, the approved scheme is significantly different to the proposal before me.
42. There is a more than theoretical chance that the approved scheme would be implemented. Nevertheless, it is not as harmful as what is before me, so carries little weight and does not alter my decisions.
43. The appellant suggests that conditions could be imposed to secure detailed drawings of windows and architectural details prior to the commencement of above-ground works. However, as the proposal relates to designated heritage assets, it would not be appropriate to leave such matters to conditions.

Conclusions

44. **Appeal A:** The proposed development would conflict with the development plan when taken as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
45. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

H Smith

INSPECTOR

² LPA Ref: 24/00018/FUL and 24/00019/LBC