



Appeal Decision

Site visit made on 5 August 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

Appeal Ref: APP/Y2003/W/25/3363840

11 High Street, Kirton in Lindsey, Lincolnshire, DN21 4LZ

- 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 Mohan Palanisamy against the decision of North Lincolnshire Council.
 - The application Ref is PA/2024/997.
 - The development proposed is first floor extension above existing shop to provide two flats, two storey side extension, vehicle parking, cycle parking and bin storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal the appellant has submitted revised drawings, which propose a number of changes to the design, materials, bicycle and bin storage, in order to address the concerns raised by the Council. The appellant considers that these are only minor amendments. I have considered the submitted plans with regard to the judgement of *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin). In terms of the substantive test, I find that the proposed amendments, cumulatively, would be a substantial change to the proposal. In terms of the procedural test, given that interested parties and consultees would not be aware of the amended scheme, I consider that they would be prejudiced if I determined this appeal on the basis of the proposed amendments. Consequently, I have not accepted this additional evidence as part of the appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the setting of the Grade II listed Town Hall and whether it would preserve or enhance the character or appearance of the Kirton in Lindsey Conservation Area (CA), within which the site lies; and
 - the living conditions of neighbouring residents with regards to outlook, daylight and sunlight.

Reasons

Heritage Assets

4. The appeal site is a detached building located to the north of the triangular shaped marketplace in Kirton in Lindsey. The marketplace comprises a range of two and three-storey buildings of various architectural styles and age, with sash windows

being a prevalent feature on historic buildings. The central part of the marketplace is used for car parking. The appeal building is located at the end of a terrace of modern two-storey brick-built properties, which have commercial uses to the ground floor and a mix of uses above, including residential. To the side of the building is a service area next to which runs a public footpath, 'Town Hall Passage', which provides access to King Edward Street.

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) requires special attention to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. In addition, the National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of heritage assets.
6. Immediately east of the appeal site is the Town Hall¹, a Grade II listed building. It is a two-storey building constructed from limestone, which is a prominent feature within the marketplace. The appeal site is also in proximity to the Grade II Listed Cobb Hall² located on an island site in the southwest corner of the marketplace, Number 18 High Street³ adjacent to the southeastern corner of the marketplace and A and J Sargent House Furniture⁴ on the southern side, facing onto the marketplace. The significance of these listed buildings is derived from their architectural and historic interest.
7. The height of the proposed development would not exceed that of 13 High Street and would be of similar height to No 17, at the other end of this row of buildings along the north side of the marketplace. The proposed height would therefore retain the prominence of the listed Town Hall building. However, the lower ridgeline and stepped arrangement of the return element would create an awkward visual arrangement when viewed alongside the row of properties along the north side of the marketplace harming the setting of the Town Hall. Furthermore, the proposed boundary treatments adjoining Town Hall Passage would be incongruous additions to the street scene. The proposed development would therefore cause less than substantial harm to the setting of the listed Town Hall.
8. As the appeal site is located at the other side of the marketplace to the other listed buildings of Cobb Hall, J Sargent House Furniture and No 18 High Street, I consider that the significance of these listed buildings and their setting would be preserved. I also note that the Council has not raised any concerns in relation to the setting of these listed buildings.
9. Section 72(1) of the LBCAA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The CA is divided into two distinct areas, with the appeal site located in the area focussed on the Market Place and High Street. Its significance is historical and architectural, derived from its narrow streets, with a strong sense of enclosure, the hilly location and interesting collection of closely packed 18th and 19th century buildings.
10. The Conservation Area Appraisal Document (2004) (CAA) highlights that modern buildings to the north of the marketplace have a horizontal emphasis which is at odds with the strongly vertical emphasis of the historical buildings within the

¹ List Entry 1160694

² List Entry 1083032

³ List Entry 1083021

⁴ List Entry 1160657

marketplace. It also notes that regrettable features include modern windows. It goes on to identify that the appeal building has a negative impact on the CA, noting that it could be renovated sympathetically incorporating traditional designs and materials. The CAA also highlights that the single storey, flat roof of the appeal building contributes to the lack of enclosure of the marketplace.

11. As I have already set out above, the stepped arrangement of the side extension and lower ridge height would not integrate well into the existing form of buildings along the north of the marketplace and would not improve its visual enclosure. The proposed use of a precast stone lintel running across the width of the front elevation, above the shop front, modern window design and timber boundary treatments would also be at odds with the design and materials of existing buildings within the marketplace and cumulatively would harm the character and appearance of the CA. Moreover, as the existing service area would be turned into car and bike parking for the proposed flats, there would no longer be a dedicated area for bin storage. The storage of bins in front of the building would harm the character and appearance of the CA. Therefore, despite the existing building having a negative impact on the significance of the CA, the proposed development would fail to preserve or enhance the character and appearance of the CA. I find that the degree of harm to the significance of the CA is less than substantial.

Heritage Balance

12. The proposal would harm the setting of the Town Hall, a Grade II listed building and the character and appearance of the CA. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Paragraph 215 of the Framework states that where harm is identified to the significance of designated heritage assets and their setting, it should be weighed against the public benefits of the proposal.
13. The proposal would provide two additional dwellings which would make a minor but nonetheless important contribution to local housing supply. There would also be some economic benefits during the construction phase and the associated increase in activity in the supply chain, however given the scale of the works the public benefit accruing from this would be limited.
14. Taken overall, I attribute modest weight to the public benefits of the proposal, which is insufficient to outweigh the less than substantial harm to the setting of the listed Town Hall and the character and appearance of the CA. Given this and the above, I conclude that the proposal would fail to satisfy the requirements of the LBCAA, Policy HE2 of the North Lincolnshire Local Plan (2003) (LP) and Policy CS6 of the North Lincolnshire Core Strategy (2011) (CS). which amongst other things seek to ensure that development proposals in conservation areas preserve or enhance their setting and protects and enhances North Lincolnshire's historic environment.

Living conditions

15. The appeal site adjoins the dwellings of 5 and 7 King Edward Street. I observed that No 7 is closest to the appeal site and its rear garden, which contains a conservatory. The boundary of this garden runs along the rear of an unused area at the back of the appeal building. This dwelling has windows at ground, first and roof level which face onto the rear of the appeal site. No 5 is set further back from the appeal site and is separated from it by a brick-built outbuilding. The proposed

extension would be separated from the main rear elevation of No 7 by approximately 9m, with a separation distance of approximately 4.5m from the garden boundary. Given these separation distances, the height and massing of the two-storey element of the proposal would create an unacceptable sense of enclosure to this garden space which would be overbearing to its users.

16. The front elevation of the appeal building is south facing, and I observed during my site visit which took place during a late morning in August, that the existing building cast a shadow across a large proportion of the unused space to the rear of the building. Therefore, the height and proximity of the proposed development would lead to further overshadowing and the loss of sunlight to the rear garden and conservatory of No 7 during the morning, particularly in the winter months, as illustrated on the submitted Solar Diagrams (dated 1st August 2024). This would make these spaces darker and less pleasant for residents. Whilst I recognise that there would be greater impact during the winter months when the garden space is less likely to be used, it would also overshadow the conservatory space, thereby causing unacceptable harm to the living conditions of the residents of No 7.
17. The site also adjoins 13 High Street, where permission has been granted for the provision of flats, which includes the insertion of new windows on the east elevation which look onto the appeal site. These windows would provide the only source of outlook, daylight and sunlight to the approved living/kitchen areas and one of the bedrooms. The proposed extension has been set back from the side elevation of No 13 by approximately 5m, which would provide a separation distance of approximately 6m between the windows of the approved flats and the side elevation of the proposal. The windows of the permitted flats would therefore look directly onto the side wall of the proposed first floor extension, providing poor outlook for future occupants.
18. Although the gap between buildings would provide sufficient daylight for future occupants of the permitted flats, the height and proximity of the proposed extension would lead to overshadowing and loss of sunlight to the residential rooms of No 13 High Street in the mornings of winter months, which would make these habitable rooms gloomier during much of the day. Whilst I note that the owner of No 13 has no objections to the proposal, the absence of objection does not in itself warrant allowing the appeal.
19. I observed that the windows of the approved flats at No 13 have been installed. The appellant contends that these windows differ from those approved, exceed the size allowed on a party wall and given the depth of the habitable rooms of the permitted flats does not provide adequate daylight for future occupants. However, any unauthorised development will be a matter for the local planning authority and is not a matter for me in determining the appeal.
20. The proposed development would harm the living conditions of neighbouring residents with regards to outlook and sunlight and thereby conflicts with Policies H5 and DS1 of the LP and Policy CS5 of the CS. These Policies amongst other things seek to ensure that all development is of a high standard of design and does not result in unacceptable loss of amenity to neighbouring land uses.

Other Matters

21. The appellant has raised concerns that the granting of permission at the adjoining property has blighted the current proposal and that Council officers have failed to engage with the appellant, however these are not matters for me in the determination of this appeal.

Planning Balance and Conclusion

22. The proposed development would create unacceptable living conditions for neighbouring residents and would cause less than substantial harm to designated heritage assets. These harms bring the scheme into conflict with the development plan.
23. The appellant contends that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Where this is the case, the Framework advises that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the proposal. The protection of designated heritage assets are of particular importance and I have found the Framework provides a strong reason for refusing the proposal. Therefore, the presumption in favour of sustainable development does not apply in this case.
24. In reaching my decision I have paid special attention to the requirements of the LBCAA. I conclude that the proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, for the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR