



Appeal Decision

Site visit made on 18 November 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2025

Appeal Ref: APP/C2741/W/25/3371059

72 Lowther Street, York YO31 7LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Toby Kendall against the decision of City of York Council.
 - The application Ref is 24/00843/OUT.
 - The development proposed is erection of dwelling house with all matters reserved.
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Decision

1. The appeal is allowed and planning permission is granted for erection of dwelling house with all matters reserved at 72 Lowther Street, York YO31 7LR in accordance with the terms of the application, Ref 24/00843/OUT, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the Council determined the application the City of York Local Plan, February 2025, (the LP) has been adopted. I have therefore determined the appeal based on the current applicable policies in the LP insofar as they are relevant.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupants of 10, 12, 14, and 16 Brownlow Street, with particular reference to privacy and outlook.

Reasons

Character and appearance

4. The surrounding area is characterised by a dense grain of development, with a mix of traditional terraced properties and examples of backland and infill schemes. There is broadly consistent use of materials throughout, and the locality is predominantly residential in nature. The site itself is not within a conservation area, nor does it benefit from any statutory heritage designation. It is evident from the submitted material that the area has experienced a degree of change over time, including both the loss and introduction of similar forms of development in the vicinity.
5. The proposed dwelling would occupy a relatively constrained plot to the rear of 72 Lowther Street. There are discrepancies in the dimensions quoted by the parties,

but as all matters, and particularly scale, are reserved, the indicative plans show the general relationship between the proposed dwelling and its surroundings. In this context, the locality's established pattern of development and the presence of other infill and backland schemes suggests that the principle of introducing a dwelling in this location is not, in itself, out of keeping with the area.

6. The adjacent building to the east of the appeal site, 3 Dudley Court, occupies a position outside the general arrangement of development fronting the streets in the area, and the proposed dwelling would be similarly sited beyond the established pattern of terraces. When considered together, these buildings would increase the concentration of built form in this part of the area, closer to the rear of the terrace of Brownlow Street. However, the locality is already characterised by a dense grain of development, with various infill and backland schemes introduced over time.
7. Although the proposed scheme will be visible from nearby properties, its visibility from public areas will be limited, and the overall change would be modest in the context of the existing dense grain of development. Therefore, on the basis of the indicative plans, the cumulative effect of the proposal would not be so significant as to cause harm to the prevailing character or pattern of the area.
8. I have had regard to concerns raised by York Civic Trust and some third parties regarding the erosion of the historic street patterns and the risk of overdevelopment in this location. However, on the basis of the indicative plans and the evidence before me, I consider that the proposal would sit comfortably within the established and historic pattern of development and is capable of being designed in a way that reflects both the historic and current character and appearance of the area.
9. As matters such as appearance, landscaping, layout, and scale remain to be determined at reserved matters stage, there is scope to ensure that any future scheme is designed to respect the character and appearance of the area. Therefore, I consider the principle of development in this location to be acceptable, subject to the detailed design to be addressed at reserved matters stage.
10. Taking the above into account, I conclude that the proposed scheme would provide a suitable infill development that would be sympathetic to the character and appearance of the area. Hence, it would accord with Policies D1 and D2 of the LP which seek, among other things, to ensure that new development enhances and complements the historic arrangement of streets, plot and buildings and the character and appearance of the city.

Living conditions

11. The proposal would introduce built form into an area that currently provides some visual relief for neighbouring properties, and this would inevitably alter the outlook from those dwellings. While this change would be perceptible, the indicative plans suggest that the increase in mass and scale would be modest in the context of the existing dense pattern of development. The surrounding area already exhibits close relationships between buildings, and similar arrangements are evident elsewhere. On this basis, I do not consider that the effect on outlook would be so significant as to amount to unacceptable harm.
12. It is also relevant that the appellant has indicated that the boundary wall between the appeal site and neighbouring properties on Brownlow Terrace would be restored to its full height, which in itself would not require planning permission. This

would provide a substantial screen at ground level and further reduce the visual impact of the proposed dwelling when viewed from neighbouring gardens and yards, thereby mitigating any sense of enclosure.

13. With regard to privacy, the outline nature of the application means that details such as window placement and boundary treatments remain to be determined. The absence of specific details at this stage limits the ability to assess the precise impact on neighbouring privacy. Nevertheless, it is reasonable to expect that any concerns relating to overlooking could be addressed through careful design at reserved matters stage, including the use of rooflights, high-level windows, or other measures.
14. I have also considered representations from neighbouring occupants regarding loss of outlook, increased sense of enclosure, and potential overlooking. The proposal would alter the outlook from some properties, but the change would be modest in the context of the existing structures and dense urban grain. Privacy impacts cannot be fully assessed at this stage, as window positions and detailed design remain to be determined, but these matters can be addressed at reserved matters stage.
15. On the basis of the information before me, I am not persuaded that the principle of development in this location would result in unacceptable harm to the living conditions of neighbouring occupants. Matters of detailed design remain to be addressed at reserved matters stage, where there is scope to ensure that the amenity of neighbouring properties is appropriately safeguarded.
16. Therefore, to conclude on this main issue, the proposal would not detract from the living conditions of occupants of neighbouring properties, with particular reference to privacy and outlook. In this respect, the proposal would accord with Policies D1 and ENV2 of the LP, which seek, among other things, to ensure that design considers and does not unacceptably harm the amenities of existing occupants.

Other Matters

17. Concerns were raised about matters such as limited external space, party wall issues, and potential pollution. These do not materially affect the main issues in this appeal and, where relevant, can be addressed through separate legislation or at reserved matters stage. Issues relating to parking, drainage, and land contamination were considered by the Council and found to be acceptable or can be managed by condition, and I find no reason to disagree with these conclusions.

Conditions

18. The Council has provided a list of suggested conditions, which I have considered against paragraph 57 of the National Planning Policy Framework and advice contained in Planning Practice Guidance. Where appropriate, I have amended the wording of the suggested conditions for clarity and reasonableness.
19. In the interests of certainty and clarity, I have imposed the standard conditions relating to the approval of reserved matters, the commencement of development, and the approved plans.
20. A condition relating to facing materials is necessary to safeguard the character and appearance of the area, as is a condition requiring details of foul and surface water drainage to ensure the proper drainage of the development. In order to meet the

environmental objectives of the LP, I have attached a condition relating to carbon emissions and water consumption.

21. I have amalgamated the Council's suggested conditions relating to ground conditions and contaminated land, due to the scale of the development. This condition is considered necessary to evaluate, remediate and reduce risk to future occupants. Given the proximity of neighbouring properties, a condition requiring a Construction Method Statement is reasonable and necessary in the interests of maintaining highway safety and amenity during construction.
22. I have imposed a condition requiring details of boundary treatments to ensure the development integrates with the area and maintains neighbouring amenity. In the interests of highway safety and sustainability, a condition is imposed requiring the provision and maintenance of vehicle and cycle parking. Given the location and constrained nature of the site, a condition removing permitted development rights is necessary to preserve the character and appearance of the area and in the interests of the amenity of neighbouring and future occupants.

Conclusion

23. The proposal accords with the development plan, when taken as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above I conclude that the appeal is allowed.

C Mayes

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos: PE.02 Proposed Plot/Elevations with Labels/Text, July 2024; and, SS.02 Elevations & Sections Various Examples, July 2024.
- 5) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing

by the local planning authority. The development shall be carried out in accordance with the approved sample details.

- 6) No development shall take place until details of foul and surface water drainage works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to commencement, a Sustainability and Energy Statement shall be submitted to and approved in writing by the local planning authority. The statement shall demonstrate:
 - (a) how the development achieves an on-site carbon emissions reduction of at least 31% above the Target Emission Rate required under Part L of the Building Regulations 2013, of which at least 19% shall come from energy efficiency measures;
 - (b) how the development achieves a water consumption rate of no more than 110 litres per person per day, calculated in accordance with Part G of the Building Regulations; and
 - (c) consideration of good practice adaptation principles for climate resilience.

The statement should also set out whether further reductions of up to 75% over and above Part L requirements have been considered, and if not feasible or viable, provide justification.

- 8) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - (a) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - (b) the site has been remediated in accordance with the approved measures and timescale; and
 - (c) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- (a) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - (b) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- (a) the parking of vehicles of site operatives and visitors;
- (b) loading and unloading of plant and materials;
- (c) storage of plant and materials used in constructing the development;
- (d) measures to control the emission of dust and dirt during construction; and,
- (e) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as in accordance with the approved details before the building is occupied.
- 11) The development hereby permitted shall not be occupied until the areas for parking vehicles and cycles has been provided in accordance with drawing no. PE.02. Thereafter, the space shall be retained for the parking of vehicles only.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A to E of Part 1 of Schedule 2 to the Order shall be undertaken.

Ends