



Appeal Decisions

Site visit made on 29 October 2025

by Timothy C King BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2026

Appeal A Ref: APP/U1430/W/25/3367799

93 and 94 High Street, Rye, East Sussex, TN31 7JN

- 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 Mrs Marina Kim against the decision of Rother District Council.
 - The application Ref is RR/2024/620/P.
 - The development proposed is Demolition of rear extensions, formation of two-storey rear extension to provide additional ground floor accommodation and enlarge first floor domestic accommodation with access to the gardens from the first floor.
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Appeal B Ref: APP/U1430/Y/25/3367842

93 and 94 High Street, Rye, East Sussex, TN31 7JN

- 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 Mrs Marina Kim against the decision of Rother District Council.
 - The application Ref is RR/2024/621/L.
 - The works proposed are Demolition of rear extensions, formation of two-storey rear extension to provide additional ground floor accommodation and enlarge first floor domestic accommodation with access to the gardens from the first floor.
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Decision

1. Both appeals are dismissed.

Background and Preliminary Matters

2. Nos 93 and 94 High Street are situated, mid-point, within a Grade II listed three-storey terrace (nos 92-96). The terrace, which also lies within the wider Rye Conservation Area (RCA), comprises ground floor retail/commercial units with residential accommodation on the upper floors. To the rear each property has steps up to a garden which, due to the topography, lies closer to first floor level.
3. In January 2020 listed building consent (LBC) was granted on appeal for the repair and insulation of the roof of the rear extension at no 93. This involved the replacement of roof slates with Kent peg tiles, a slight change of roof pitch to create a central ridge, replacement of the rear hip with a gable end and addition of velux roof lights, along with a number of internal alterations. This consent, though, was never implemented and it will have lapsed.

The Proposals

4. The appellant says that the proposed demolition of the existing rear outbuildings/extension, and the intended two-storey rear extension, are necessary

- to improve the ground floor layout and upper floor residential accommodation for both properties and would enhance access to the respective rear garden areas.
5. The proposed extensions would protrude from the existing outriggers and have been designed with a 'step-down' approach from the main buildings' roof pattern behind. Such an arrangement appears characteristic of rear development carried out to buildings along the High Street, although individual circumstances must, of course, be taken into account. The appellant is of the view that the proposal reinforces the subservience of the proposed additions and is appropriate for no 94 where the proposed extension would replace a relatively modern outbuilding.
 6. The proposed alterations to no 93, a gallery at ground floor level, would involve the demolition of the two outbuildings which are linked to the main building, and are in use as a kitchen and bathroom. This would be replaced by a two-storey element spanning the full width of the property, incorporating the courtyard area and extending out to the rearmost building line of the existing outbuildings. The additional floorspace would create a studio/artist's store, and a wet room and kitchen/diner are proposed above with direct access facilitated into the garden from first floor level.
 7. Turning to no 94, at ground floor level, an internal wall would be removed and the existing salon extended into the staff area immediately to the rear. New steps up to the garden would be created along with new retaining walls. At first floor level the existing bathroom has limited head-height and this would be altered to create higher eaves, spanning the full width of the property, and extending out to include existing covered outside space.
 8. The proposed extension at the above property would also house a bedroom with direct access to the garden, shower room and store area at first floor level and, to facilitate the scheme, the existing late twentieth century outbuilding would be demolished.
 9. In essence, irrespective of impacts arising from the physical extent of the works, the proposal, in its entirety, would provide some symmetry to the rear of the buildings.

Main Issues

10. In the context of the above, the common main issue for both Appeals A and B is whether the proposed development would preserve the Grade II listed buildings, 93 and 94 High Street, Rye, and the features of special architectural or historic interest that they possess.
11. Relating to this, the effect on the character and appearance of the surrounding area, with particular regard to the site's location within the Rye Conservation Area, also falls for consideration under Appeal A, as does the effect of the development on the living conditions of the neighbouring occupiers at nos 92, 95 and 95a.

Reasons

Special interest and significance

12. The terrace comprises late seventeenth/early eighteenth facades directly fronting the High Street where nos 93 and 94 have distinctive bay-windows and historical architectural features at both first and second floor levels. The rear outbuildings at

no 93 are curtilage listed. This means a building or structure within the grounds of a principal listed building.

13. Curtilage listed buildings are protected under the relevant legislation, even if not mentioned in the official list entry, because they were part of the property before 1948 – it is understood no 93's outbuildings were actually in situ in 1859 - and, with aesthetic value, contribute to the main building's special historic interest. The previous appeal Inspector commented on this matter, and I discuss this later in the decision letter. As such, these buildings have the same legal protection and listed building consent is required for any alterations thereto. Due to its recent construction the outbuilding at no 94 would, though, not be afforded such protection.
14. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) requires that the decision maker has special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
15. The setting of a listed building refers to the surroundings in which the heritage asset is experienced, and alterations to curtilage buildings or structures can diminish the visual or functional relationship with the main building.

Effects of the proposals on the principal listed buildings.

16. As mentioned, the appellant has referred to the comments of the previous Inspector who, in allowing the appeal in 2020 (*APP/U1430/Y/19/3237348*) and granting listed building consent for the repair and alterations to the roof of the rear outbuildings which link as an extension to no 93, said that the extension displays limited architectural interest. Although he was of the view that the method of construction demonstrates the historic development of the whole building, he considered the significance of that history was low.
17. The Inspector goes on to say that there is a need to ensure that the future wellbeing of the more significant main building and its setting within the conservation area. I agree, but it should be remembered that the proposal at that time involved only minor remedial works to the outbuildings' roof. Moreover, the then Inspector was not faced with a scheme involving their demolition. .
18. At my site visit I noted that the said adjoining outbuildings are sunken behind the raised rear garden and, as such, their obtrusiveness is limited. That said, I consider that these outbuildings, which are of considerable age, do contribute to the main building's character. The degree of contribution made to the heritage asset in this regard is a matter of judgement.
19. Both the rear extension to no 94 and its outbuilding beyond are visually prominent, and the extension, at some stage, appears to have also undergone some limited external alterations. However, more glaring is the outbuilding's size and contextual siting with its expansive pitched roof detracting from the main building's architectural and historical significance and also its setting. Further, it sits atop the raised rear garden and runs along the common boundary with no 95, another listed building, and must, therefore, have implications for the wider setting. With these factors in mind, the outbuilding's removal would be welcomed.

20. Direct harm to the historic environment or heritage assets cannot be concealed or limited to visibility from the public realm and, as such, this is not a determining factor in considering whether proposed works would preserve the special architectural or historic interest of the building.

Effects on the living conditions of neighbouring occupiers

21. As regards living conditions the proposed two-storey extension at no 93, as mentioned, would extend to the building-line limit of the outbuildings scheduled for demolition. Its gabled-roof's central ridge would be set below the height of the existing two-storey outrigger, and a similar arrangement, in terms of height, depth and design, is proposed to the rear of no 94.
22. The main rear building line of no 92 is already recessed from that of no 93, and the set back would markedly lengthen with the intended two-storey addition. As a result no 92's rear facing, first floor, kitchen window which, according to the Council's assessment, lights a room sufficiently sized to eat within, would be affected by overshadowing due to the resultant physical relationship between the neighbouring properties.
23. Immediately to the east of no 94 is no 95 (a ground floor retail unit) and no 95A above which, spread over the two upper floors, accommodates a first floor residential flat. No 95A has a first floor rear extension which, via the living room's glazed doors, gives access to an external terrace on the protruding flat roof. This is used by the occupiers for amenity purposes. The proposed extension at no 94 would extend rearwards some 3.3m beyond the existing extension to no 95 and, it is understood that the proposed new central ridge would be to a similar height as the cill to the rear facing second floor window at no 95.
24. On the above basis there would clearly be implications for the outlook from the living room and also the amenities provided by the first floor terrace. This would be exacerbated by the relative orientations of nos 94 and 95 which would mean that the upper floor residential unit would suffer a significant loss of both daylight and sunlight entry to the living room window and also the external terrace, due to the intended development's height and depth. The residential occupiers would also experience a resultant and harmful sense of enclosure, and the said effects would somewhat negate the benefits arising from the removal of no 94's outbuilding.
25. Overall, I therefore consider that the proposed development would be deleterious to both nos 92 and 95A. Given the physical arrangement and the configuration of the ground floor commercial below (no 95) the resultant effects would not appear to be of particular significance.

Public benefits and Planning balance

26. Paragraph 212 of the National Planning Policy Framework (the Framework) states that, when considering the significance of a designated heritage asset, great weight should be given to that asset's conservation. Significance can be harmed or lost through alteration of the heritage asset and, in instances where harm is identified, the degree of such is a matter for the decision maker's assessment.
27. This must be given considerable weight, and requires convincing justification. The more important the asset, the greater the weight should be. This is irrespective of the considered degree of harm that would arise in each individual case. The advice

- within the Framework is, that firstly, it needs to be identified whether there would be harm, and the second stage is whether public benefits weigh against this harm,
28. Public benefits may follow from developments and could be anything that delivers economic, social or environmental objectives. They should be of a nature and scale to be of benefit to the public at large and not just be a private benefit. Apart from sustaining or enhancing the significance of a heritage asset and the contribution of its setting, another public benefit, as mentioned in the planning practice guidance, would be securing the optimum viable use of a heritage asset in support of its long term conservation; effectively balancing viability with heritage protection.
 29. In the current appeals there appears to be a need for some internal renovation and remedial measures required are a material consideration in assessing whether listed building consent should be granted for works thereto. The buildings' extension to the rear and internal reconfiguration, which would benefit both no 93 – where an increase of some 22 sqm is shown – and, to a lesser extent, the ground floor salon at no 94, both represent public benefits.
 30. The enhancements to the habitable accommodation at first floor level and general internal improvements, along with better accessibility, represent more of a private benefit although, in support of the proposal, the appellant cites policy H2 of the Rye Neighbourhood Plan which encourages small homes for young persons, and also for the elderly to downsize..
 31. I acknowledge this, but the need for renovation does not automatically mean consent for the proposed alterations should be given. Indeed, balancing preservation of historical character against significant decay will often require extensive justification with repair taking precedence over substantial alterations. This is so that the special architectural or historic interest of the building remains protected. In other words, the primary objective and starting point is to preserve the building's special interest, and a robust argument is required for any departure from that principle.
 32. Having had special regard to the preservation of the building and its setting in accordance with the Framework, I have found that the character of the listed buildings would be affected and their significance harmed, There is little, though, to suggest that the scheme is the only option of securing the buildings' optimum viability.
 33. With reference to paragraph 215 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. For the purposes of the Framework I find the harm would be 'less than substantial' but, nonetheless, of considerable importance and weight.
 34. This is not to say, of course, that physical changes, involving both demolition works and new build elements to a different design and form, could not be considered acceptable. However, no alternative scheme is before me. Moreover, appropriateness in terms of both planning merits and LBC must remain a matter for any future negotiations that might take place between the two parties.
 35. Whilst I give moderate weight to the public benefit of reconfiguring these listed buildings by way of the proposed extensions, which would go some way to support their long term conservation, I am not necessarily convinced that the viability of the

commercial and residential uses is sufficiently threatened to necessitate the extent of the proposed works. Accordingly, the totality of the public benefits that would arise are insufficient to outweigh the considerable importance and weight I attach to the harm that would result to the significance of these designated heritage assets.

36. I am of the opinion that the building's conservation would be compromised to an unacceptable degree and these listed buildings would not be conserved in a manner appropriate to their significance. Similarly, in having regard to the statutory duty under s72(1) of the LBCAA I am not convinced that the proposed development would preserve or enhance the character or appearance of the RCA.

Other Matters

37. LBC can technically be granted for works that do not require planning permission, as they are separate legal controls. However, if the works do require planning permission – the scheme, in this instance, being a case in point – it is obviously best to ensure that, notwithstanding whether LBC might be considered appropriate, the proposal should be taken as a whole and be both acceptable and viable in terms of the planning balance between merits and impacts.

Conclusions

38. I have found that the proposal would fail to preserve the special architectural and historic interest of the Grade II listed buildings, nos 93 and 94 High Street, Rye. As such, the proposal would be contrary to the requirements of sections 16(2) and 66(1) of the said Act and also paragraphs 212 and 215 of the Framework.
39. Further, in view of the above, the proposal would neither preserve nor enhance the character or appearance of the Rye Conservation Area, and would fail to accord with policies EN2 and RY1 of the Rother Local Plan Core Strategy and policy DHG9 of the Development and Site Allocation Plan. As regards the latter policy I have explained the significant adverse impacts that I have concluded would result and be detrimental to both nos 92 and 95A.
40. More widely, the proposal and its effects would conflict with the development plan as a whole, and there are no material considerations which indicate that the decision for Appeal A should be made other than in accordance with the development plan.
41. Accordingly, for the above reasons, I conclude that both Appeals A and B should be dismissed.

Timothy C King

INSPECTOR