

1.6 The current direction on demolition work in conservation areas is contained within Circular 01/2001. Appendix D of the Circular outlines the House of Lords judgement in the case of Shimizu (UK) v Westminster City Council. The House of Lords considered that works for the demolition of an unlisted building in a conservation area must also involve the total or substantial destruction of the building concerned. This means that many works which involve the destruction of the fabric of part only of a building will not be works of demolition and will not require conservation area consent.

1.7 The proposed demolition work would not involve total or substantial destruction of the Royal Dragon building. Hence it is not considered that conservation area consent is required to demolish the existing north wing extension.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

2.2 Policies:

CYHE5

Demolition of Listed Buildings and Buildings in Conservation Areas

3.0 CONSULTATIONS

EXTERNAL

3.1 Neighbours consulted, site notice posted, and press advertised. Expired 1 October 2008 and 11 December 2008. No response received to date.

3.2 Fishergate Planning Panel consulted. First consultation expired 25 September 2008 and the second consultation expired 11 December 2008 following the submission of amended drawings. No response received.

INTERNAL

3.3 Design, Conservation and Sustainable Development consulted. Response received 27 November 2008. The following comments were made:

- the revised scheme proposes to retain the majority of the wall whilst allowing vehicular access to the development site;
- this is considered to be an acceptable compromise as the wall will retain a presence in the streetscene;
- conditions should be attached requiring the applicant to secure the safety and stability of the retaining wall and railings.

4.0 APPRAISAL

4.1 The main planning issue raised by this application is whether the proposed demolition of the first 1.3m of the boundary wall and attached railings would harm the character and setting of a conservation area.

4.2 Policy HE5 of the City of York Draft Local Plan states that listed building consent and/or conservation area consent will not be granted for the demolition of listed buildings or buildings which positively contribute to the character or appearance of the area. Where exceptionally demolition or partial demolition is permitted, no demolition shall take place until a building contract for the carrying out of works of redevelopment has been made and planning permission for those works has been granted. The boundary wall appears to be contemporary with the front range of the hotel. It makes a positive contribution to the setting of the building and the street-scene. Its complete loss would to a small degree erode the character of the conservation area.

4.3 Central Government advice in relation to demolition within conservation areas is contained within Planning Policy Guidance Note 15 (PPG15) - "Planning and the Historic Environment". In exercising conservation area controls, Local Planning Authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the area in question. Account should be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and the wider effects of demolition on the surroundings and on the conservation area as a whole.

4.4 PPG15 states that the general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area. The Secretary of State expects that proposals to demolish such buildings should be considered against the same broad criteria to demolish listed buildings. Where a building makes little or no contribution, full information about what is proposed for the site after demolition should be provided. Consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment. It has been held that the decision maker is entitled to consider the merits of any proposed development in determining whether consent should be given for the demolition of an unlisted building in a conservation area.

4.5 The boundary wall appears to be contemporary with the front range of the hotel. The comments of the conservation Officer are noted, in that the wall makes a positive contribution to the setting of the building, and the streetscene. Its complete loss would to a small degree erode the character of the conservation area. The revised plans show the majority of the wall and attached railings would be retained, whilst allowing vehicular access to the development site. Under the circumstances, this is considered to be a reasonable compromise, as the wall will still retain a presence in the street-scene.

4.6 It is considered that a condition should be attached to ensure that the wall and railings are not demolished independently, before planning permission is granted and a legally binding contract for the carrying out of the works of redevelopment of the site to which these demolition works relate (i.e. land at the rear of the Royal

Dragon) is made and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority

4.5 Having taken the above into account, it is considered that the proposed development accords national Planning Policy Guidance no.15 "Planning and the Historic Environment" and the policies set out in the City of York Local Plan. Hence, this application is recommended for approval.

5.0 CONCLUSION

By virtue of the above this application is recommended for approval.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out only in accordance with the following plans:-

067 PL 008 rev C

067 PL 017 rev B

067 PL 019 rev B

067 PL 018, and

067 PL 020 received 29 August 2008, 26 August 2008 and 27 November 2008

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 The wall and railings shall not be demolished before planning permission is granted and a legally binding contract for the carrying out of the works of redevelopment of the site to which these demolition works relate (i.e. land at the rear of the Royal Dragon) is made and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure that the premature demolition of the wall and railings does not take place to the detriment of the character and appearance of the Conservation

Area.

4 Prior to the commencement of the demolition works, a detailed, written schedule shall be submitted to and approved in writing by the Local Planning Authority indicating the measures to be taken to secure the safety and stability of the section of wall that is to be retained. The approved schedule shall be implemented in its entirety following the demolition of the section of wall for which consent is hereby granted.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact of the demolition works on the character, setting and appearance of the Conservation Area. As such the proposal complies with Policies HE5 of the City of York Local Plan Deposit Draft.

Contact details:

Author: Billy Wong Development Control Officer

Tel No: 01904 551326