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## Appeal Decisions

Site visit made on 10 August 2020

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 September 2020**

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### **Appeal A Ref: APP/N1350/W/19/3240922**

#### **1 Skinnergate, Darlington DL3 7NB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Pearson, Number One Bar and Coffee House against the decision of Darlington Borough Council.
  - The application Ref: 19/00291/FUL, dated 28 February 2019, was refused by notice dated 27 September 2019.
  - The development proposed is described as 'removal of roof covering and internal alterations to form external terrace at Number One Bar, 1 Skinnergate, Darlington.'
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### **Appeal B Ref: APP/N1350/Y/19/3240925**

#### **1 Skinnergate, Darlington DL3 7NB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Pearson, Number One Bar and Coffee House against the decision of Darlington Borough Council.
  - The application Ref: 19/00292/LBC, dated 28 February 2019, was refused by notice dated 27 September 2019.
  - The works proposed are described as 'removal of roof covering and internal alterations to form external terrace at Number One Bar, 1 Skinnergate, Darlington.'
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## **Decisions**

1. **Appeal A** – the appeal is dismissed.
2. **Appeal B** – the appeal is dismissed.

## **Procedural Matters**

3. These decisions address both planning and listed building consent appeals for the same site and for the same scheme. The remit of both regimes is different, and the main issues identified below relate to either the planning appeal (Appeal A), the listed building appeal (Appeal B), or both. To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.
4. The date of the Darlington Local Development Framework Core Strategy (DCS) is stated in the Council's decision notices as both 2011 and 2014. It has been confirmed by the Council that the correct date of the DCS is 2011.
5. The proposal was revised during the determination of the applications. Amended plans and additional information were submitted to the Council and

formed the basis of the Council's decisions<sup>1</sup>. As part of the appeals, the appellant has submitted revised images which were not subject to consideration by the Council during the determination of the applications<sup>2</sup>. The changes as shown on Proposed Model Nos 1-7 comprise the retention of the existing metal ventilators and the colour treatment of the exposed roof structure and proposed metal framework.

6. The Council has had the opportunity to comment on these changes as part of the appeals. Having regard to the Wheatcroft Principles<sup>3</sup>, I do not consider that accepting these images would deprive those who should have been consulted on the changed works of the opportunity of such consultation. However, as they are montage images and not scaled plans/drawings, for the avoidance of doubt, I have determined the appeals on the basis of the amended plans and additional information which formed the basis of the Council's decisions, but also had regard to the revised images submitted as part of the appeals.

### **Main Issues**

7. The main issues are the effect of the proposal on: the special interest of the Grade II listed building, No 1 Skinnergate; the character and appearance of the local area, having regard to whether it would preserve or enhance the character or appearance of the Darlington Town Centre Conservation Area; and, the setting of the Grade II\* listed building, Friends Meeting House, with regard to noise.

### **Reasons**

8. No 1 Skinnergate (No 1), occupies a highly prominent position on the corner of Skinnergate and Coniscliffe Road within a predominantly commercial area of Darlington town centre. It dates from the late 19<sup>th</sup> century and is Grade II listed (listed as Lloyds Bank). It is located within the Darlington Town Centre Conservation Area (DCA) and nearby, to the north and north-west, is the Grade II\* listed Friends Meeting House (Meeting House) and associated burial ground.
9. The Heritage Assessment submitted with the appeals states that No 1 was designed by George Gordon Hoskins, a prominent local architect, and was constructed in 1895-7 as a show room and offices for The North of England School Furnishing Company, a renowned business of the time.
10. No 1 is a large building of three storeys with an attic and a basement. Designed in a Queen Anne style, it possesses a curved and highly decorative front elevation of brick and terracotta dressings, with a steeply pitched roof of Lakeland slate. The size, scale and architectural grandeur of the building cause it to be a highly conspicuous structure on the townscape, particularly in views looking north along Grange Road and looking west along Houndgate and Blackwellgate. Internally, the historic plan form, where it survives, reflects the hierarchy and separation of the historic uses within the building.

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<sup>1</sup> Application Plans/Drawings: L018091-100 Rev B First Floor Plan as Proposed; L018091-101 Rev B Second Floor Plan as Proposed; L018091-102 Intermediate Floor Plan as Proposed; L018091-103 Rev B Section as Proposed; L018091-104 Rev A Rear Elevation as Proposed; L018091-105 Proposed Waterproofing; L018091-106 External Concept Imagery; and L018091-107 Internal Concept Imagery.

<sup>2</sup> Revised Images: Proposed Model Nos 1-7.

<sup>3</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

11. At the back of the building is a space that was the 'Educational Stock Room' (Stock Room) and which is the subject of the appeals. Originally it was a double-height space with a viewing gallery that was accessed by two externally projecting stairwells with circular staircases. It has been altered in the past, including the insertion of a floor, the removal of one of the stairwells and the insertion of windows and fire doors. However, key features of special architectural or historic interest survive in situ, including, one of the stairwells/staircases, a large arched window, sizeable rooflights, decorative timber ceiling and metal ventilators.
12. At present, the ground floor of No 1 is in use as a bar and the basement is in use as office space, storage and toilets. The rest of the building is vacant. In 2016 planning permission and listed building consent were granted for the conversion of the first and second floors to form seven apartments, two of which are proposed to be located within the Stock Room<sup>4</sup>. This approved scheme has commenced and it is agreed by the main parties that the permission and consent are extant.
13. From the evidence available to me, I consider that the special interest and significance of No 1 to be largely derived from its historical associative value with G G Hoskins and The North of England School Furnishing Company; along with its historical illustrative value, aesthetic designed value and communal value as a late 19<sup>th</sup> century, landmark, commercial building and important employer within Darlington.
14. No 1 has a pleasing arrangement with elaborate detailing and a distinctive roofscape. This, in conjunction with surviving historic fabric and remnants of the building's historic plan form, make notable contributions to the building's historical and aesthetic values and thus its special interest and significance.
15. The DCA encompasses the historic core of Darlington. The character and appearance of the DCA is derived, in part, from the surviving elements of its historic street pattern and the many fine historic public and commercial buildings which are constructed of traditional materials, including ashlar stone, red brick, natural slate and pantiles. The age, former use, form, design and materials of No 1, cause it to make an important contribution, historically and aesthetically, to the character and appearance of the DCA as a whole and, thereby, to its significance as a designated heritage asset.
16. The Grade II\* listed Meeting House with its associated burial ground to the rear, is a short distance away and visible from the Stock Room at the rear of No 1. From the evidence submitted and insofar as it pertains to the appeals, I find that the special interest and significance of the Meeting House largely relate to its historical associative and illustrative values, aesthetic designed value and communal value as a historic building and burial ground linked with the Quaker religious movement.
17. I am mindful of the National Planning Policy Framework's (the Framework) definition of 'setting' as being the surroundings in which a heritage asset is experienced, the extent of which is not fixed and may change over time. The associated burial ground of the Meeting House is an integral part of the listed building's setting. It is bordered by a tall wall and additionally screened by mature trees. I was unable to access the burial ground on my site visit, but it

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<sup>4</sup> Application Refs: 16/00442/FUL and 16/00443/LBC.

would be reasonable to conclude that this formal enclosed space provides an oasis of calm within Darlington's bustling town centre and that this contributes to the special interest and significance of the Meeting House.

18. The proposed formation of an external terrace within the Stock Room would involve the removal of three quarters of the existing roof covering along with three of the timber ceiling panels to the flat section along the central line of the roof. Access to the terrace would be gained via the existing spiral staircase and a glazed lobby would be installed at the head of the stairs. A metal framework, which would mimic the design of the timber ceiling panels, would be installed. The later windows would be retained and the modern fire doors would be infilled. The retained fabric would be weatherproofed. The appellant has confirmed that the existing metal ventilators and internal plaster could be retained and controlled by condition.
19. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
20. The proposal would involve the permanent and damaging loss of a considerable amount of historic fabric relating to an important space within No 1 and key features of intrinsic architectural and historic merit. Furthermore, although the exposed structural elements would be weatherproofed, I am not convinced that this process would prevent the remaining historic fabric from being susceptible to future decay and loss.
21. I recognise that the structural frame of the roof would be preserved and I note the appellant's willingness to retain the metal ventilators and wall plaster, and to colour the remaining structure and proposed metal framework a 'more recessive' shade. Nonetheless, the tangible solidity and physical presence of the building's distinctive slate roof and rooflights would be lost, and the surviving skeleton and features of interest would appear peculiar and disconnected to the rest of the structure in both form and function. Moreover, even though the proposed metal framework would reflect the timber ceiling panels, it would be a poor and inappropriate substitute for the original feature.
22. I acknowledge that the rear of the building is a secondary elevation which is less publicly visible and that it is read in conjunction with adjacent urban features such as an anti-climb fence and extraction equipment. Nevertheless, the building and roofscape can be viewed from a publicly accessible lane to the north of St Augustine's RC Church. Therefore, given the extent and nature of the proposed development and works, combined with any associated commercial lighting, the proposal would be unduly visible along the roofscape at the rear of No 1 when viewed from this public route.
23. In these respects, the proposal would markedly erode No 1's historic and architectural integrity, weaken its heritage values and harm its identified special interest and significance. Furthermore, in my judgement, if the special interest and significance of No 1 are harmed in this way, it follows that there would be some residual and incremental harm to the character and appearance of the local area, and thus it would not preserve or enhance the character or appearance of the DCA as a whole.

24. Turning to the effect of the proposal on the setting of the Grade II\* listed Meeting House, I accept that the open air nature of the terrace would potentially increase the general noise levels within the vicinity of the Stock Room. However, the Meeting House and associated burial ground are located centrally within the town and, as such, are exposed to a commercial noise environment throughout the day. In view of the proposed opening days / hours of the terrace and the willingness of the appellant to accept a condition which would control the playing of amplified music to certain hours, I do not consider that the potential additional noise generated by the proposal, over and above the existing noise environment, would affect the setting of the Meeting House to a harmful degree. On this basis, it would preserve the setting of this listed building and the contribution it makes to its significance.
25. Taking all of the above into account, I find that the proposal would fail to preserve the special interest of No 1 and would have a harmful effect on the character and appearance of the local area, which would neither preserve or enhance the character or appearance of the DCA. As a result, the proposal would harm the special interest and significance of these designated heritage assets. This harm is acknowledged by the appellant in the Heritage Statement and Appeal Statement. However, I find that the proposal would preserve the setting of the Meeting House, with regard to noise. Nevertheless, a lack of harm in this regard does not amount to a consideration in support of the appeals.
26. With reference to Paragraphs 195 and 196 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent and relatively localised nature of the proposed development and works, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 196 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the building's optimum viable use.
27. I acknowledge that the proposal would facilitate public access into, and the reuse of, this currently vacant space. In addition, entry into the Stock Room via an original circular staircase would be in keeping with the building's historic plan form. This, in conjunction with the proposed themed 'Educational Stock Room' fit-out of the space and interpretation panels, would have the potential to enhance the public's understanding of the history and significance of this heritage asset and be of public benefit.
28. Nonetheless, I consider that it has not been adequately demonstrated that the same public benefits could not be achieved by a less harmful scheme. Furthermore, there is no mechanism before me that would secure any interpretation within the space.
29. The appellant asserts that the proposal would deliver the continued economic viability of the existing business, maintaining the optimum viable use of the building as a bar and allowing it to compete in the market with provision of outdoor space, which would, in turn, contribute to the local economy.
30. However, no substantive evidence has been provided which verifies the need for an outdoor terrace as part of the business, particularly one which I note the Council's Environmental Health Officer has commented, could not be legally used as a smoking area. Moreover, there is no information before me which

confirms that the optimum viable use of No 1 as a commercial bar would be jeopardised or would cease if the appeals were to fail and the proposal was not implemented.

31. I am mindful that the extant scheme is a potential fallback position. However, only limited information regarding the approved scheme has been provided, namely a floor plan and section relating to the Stock Room. As such, I am not able to fully assess the effect of the approved scheme on the Stock Room, the roofscape or the townscape at the rear of No 1. Of the information submitted, I acknowledge that the extant scheme would involve considerable intervention into and alteration of the Stock Room, which would diminish its historic and aesthetic values and thus its heritage significance.
32. However, the appellant has confirmed that it is 'unlikely that these apartments will be implemented' because of their location above the existing dance floor which may make them unattractive to potential buyers. As a result, I cannot consider it to be a realistic or probable prospect that this part of the extant scheme would be implemented should the appeals be dismissed. Nor am I wholly convinced that it would be appreciably more harmful than the scheme before me now. These considerations limit the weight that I can attach to it as a fallback position.
33. I accept that if the appeals are to be dismissed then the future of the vacant Stock Room is uncertain and there is a risk its condition could continue to worsen. However, there is limited value in securing a new use for part of a designated heritage asset if, in doing so, the proposed development and works compromise its conservation to an unacceptable degree and do not conserve it in a manner appropriate to its significance. Consequently, in giving considerable importance and weight to the identified harm to the significance of the designated heritage assets of No 1 and the DCA, I find that this would not be outweighed by the public benefits arising from the proposal.
34. Given the above and in the absence of sufficient public benefits that would outweigh the harm found, I conclude that the proposal would fail to preserve the special interest of the Grade II listed building No 1 and would have a harmful effect on the character and appearance of the local area, which would neither preserve or enhance the character or appearance of the DCA. Although I have found that the proposal would preserve the setting of the Grade II\* listed building the Meeting House, with regard to noise, this is a neutral consideration in the balance. Overall, the proposal would be contrary to the clear expectations of Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions within the Framework which seek to conserve and enhance the historic environment.
35. The proposal would also not accord with Policies CS2 and CS14 of the DCS, insofar as they seek to reflect and/or enhance Darlington's distinctive built and historic characteristics that positively contribute to the character of the local area and its sense of place; and, protect and, where appropriate, enhance the distinctive character of the Borough's built historic townscapes, including protecting, enhancing and promoting the quality and integrity of Darlington's distinctive designated built heritage. As a result, the proposal would not be in accordance with the development plan.

## **Other Matters**

36. My attention has been drawn to the permission granted for an outdoor terrace at the Hash Bar at 14 Coniscliffe Road<sup>5</sup>, near to the appeal site, which was not considered by the Council to have an adverse impact on the setting of the Grade II\* listed Meeting House. However, as I have accepted that the proposal would preserve the setting of the Meeting House, this matter is not determinative.
37. I am aware that Historic England passed comment on the proposal to the Council's specialist officers and that no objections were raised in relation to Environmental Health and Highways matters. Nevertheless, these are neutral considerations in the balance and do not outweigh the harm I have found.
38. I note the appellant's comments that the Council did not give him an opportunity to resolve certain matters pertaining to the proposal prior to refusing the applications. However, it is not within the remit of the appeals process for me to comment on such matters.

## **Conclusion – both appeals**

39. For the reasons given above, I conclude that both Appeal A and Appeal B should be dismissed.

*F Cullen*

INSPECTOR

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<sup>5</sup> Application Ref: 16/00368/FUL.