
Appeal Decision

Site visit made on 23 August 2016

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2016

Appeal Ref: APP/A0665/W/16/3152140

Car Park, Hunter Street, Chester, Cheshire, CH1 2AR

- 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 Hunter Street Chester Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 15/04014/FUL, dated 23 September 2015, was refused by notice dated 21 April 2016.
 - The development proposed is for 77 student residential units with ancillary and communal facilities, landscaping and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for 77 student residential units with ancillary and communal facilities, landscaping and car parking, at Car Park, Hunter Street, Chester, Cheshire, CH1 2AR, in accordance with the terms of application ref: 15/04014/FUL, dated 23 September 2015, subject to the conditions in the attached schedule.

Procedural Matter

2. The appellant has provided a number of revised plans as part of their appeal submission. These make some minor amendments to the scheme, to overcome the Council's concerns with regard to air quality. These amendments reorganise the ground floor level of the proposal to relocate Studio Apartments 1 and 2 at ground floor level away from the St Martin's Way façade. These are largely internal amendments, which result in only very minor external changes. Consequently, I consider that accepting the revised plans would not prejudice any parties. In any event, the appellant has undertaken further consultation on the revised plans and this exercise did not generate any additional consultation responses. The Council has also suggested that its concerns in relation to air quality could be overcome by a planning condition. In addition, the Council has not expressed any concerns with regard to the acceptability of the revised plans. This adds weight to my view that accepting the revised plans would not prejudice any parties.
 3. Given all of this, I have determined the appeal in accordance with the revised plans. For the avoidance of doubt, these are: 14/07 P01 Rev B (Site Plan); 14/07 P02 Rev F (Ground Floor Plan); 14/07 P09 Rev C (Elevations 1 St Martins Way); 14/07 P10 Rev C (Elevations 2 Hunter Street); 14/07 P11 Rev C (Elevations 3 East Elevation); 14/07 P12 Rev C (Elevations 4 North Elevation); 14/07 P13 Rev C (Elevations 5 North Link Elevation); and 14/07 P25 Rev A (Detail Elevation 2).
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Main Issue

4. The main issue of the appeal is whether the proposal would preserve or enhance the character or appearance of the Conservation Area.

Reasons

5. The appeal site is located on Hunter Street and is currently a temporary car park. I observed that the car park is an unattractive feature in the area. The site lies within the Chester City Centre Conservation Area (the Conservation Area). There are residential properties to the north fronting on to St Martin's Way and King Street. Immediately to the east of the appeal site there is a road that provides access to parking at the rear of Kings Buildings and beyond this lies the Chester City Mission building. Further to the east, I observed that Hunters Street has a more commercial appearance. The St Martin's Way part of the Inner Ring Road lies to the west and there is an open area of land to the south that forms a small park area. Although, I understand that this park area is likely to be the subject of development associated with the Northgate Redevelopment. There are also a number of listed buildings within the vicinity of the site at Kings Street and St Martin's Way. It is clear that the appeal site lies in a sensitive location and is subject to a number of competing influences from differing historic eras.
6. The proposal seeks to deliver 77 student apartments that would be contained within one building that has been designed to have the appearance of three buildings joined together. This would include a five storey tall element that would face onto St Martin's Way, with the top two storeys being set back behind a parapet at the top of the third floor. The second part of the building would consist of a feature tower on the corner of St Martin's Way and Hunter Street. This would rise to six storeys in height. A setback glazed connection would connect the feature tower with the block facing onto St Martin's Way. The final element of the building that would face onto Hunter Street would be four storeys in height. The proposed materials of the building would include brick, render and 'TECU Bronze' copper shingle rain screen cladding.
7. The proposed building would be a prominent and significant structure. This is due to its corner location and its proposed scale and massing. As identified above, it is in a sensitive location and the design of any proposal on the site needs to be very carefully considered. The Council and interested parties have raised a number of concerns with regard to the scale, massing and design of the proposed building.
8. It is clear that careful consideration has been given to try and break up the overall mass of the building that, as set out above, has resulted in the proposed design that has three fairly distinctive parts. As already identified, the section of the building facing onto St Martin's Way would be set back at fourth and fifth floor level behind a parapet. In addition, this façade would also include a middle recessed glazed section that would break up the mass of the elevation. The set back at fourth and fifth floor level in a light rendered finish would ensure that the higher floors would be fairly innocuous against the skyline and the lower three storey part of the façade, finished in brick, would be the visually prominent aspect of the elevation. In my view, these measures would reduce the apparent mass and scale of this part of the building considerably when viewed from St Martin's Way. The height of the parapet of the lower three storey part of the façade would be comparable to and respect

the scale and massing of the neighbouring properties on St Martin's Way. In addition to this, when viewed from St Martin's Way it is noticeable that the buildings on Hunters Street are set at a higher ground level. This supports the acceptability of a stepped increase in height towards Hunters Street from St Martin's Way.

9. Much concern has been made of the feature tower that forms the highest part of the building on the corner of St Martin's Way and Hunters Street. I consider that the prominent corner location of the appeal site lends itself to having the ability to accommodate an architectural feature that departs to some degree from the existing context. The feature tower would be six storeys in height and would not appear overbearing to the rest of the building. Further, it is sufficiently separated from the existing properties along St Martin's Way, King Street and Hunters Street to ensure that it would not be unacceptably overbearing on those properties. I also accept the appellant's view that the feature tower does provide a link to the historic context of Chester, which includes spires and towers. Whilst the feature tower would be visible on the skyline, I am of the view that it would add visual interest to the corner when viewed from the street scene and also to the townscape when viewed from the wider area. The modern fenestration would also add to this effect.
10. The proposed building is then stepped down along Hunters Street, where the scale and mass of the building would be reflective of the neighbouring property the Chester City Mission building. This building would be separated by the access road, which would allow it to stand in its own context. I consider that the scale and mass of the building to be acceptable to its context along Hunter Street.
11. The architectural design of the scheme is modern, but the selected materials would be reflective of the character and appearance of the area. The use of brickwork for the most prominent aspects of the façades, reflect the existing properties on St Martin's Way and King Street. The proposed building would also adopt the clever use of render to reduce the apparent scale and mass on the upper floors of the St Martin's Way elevation, which is also a material that is evident in the area. The elevation facing onto Hunters Street would provide some variety and interest through the use of 'TECU Bronze' copper shingle rain screen cladding, which would be reflective of the slightly more varied and commercial appearance that I observed along Hunters Street. I am of the view that the proposed design and choice of materials has been carefully selected and this has produced a building that would sit comfortably within its local context. Further, it relates well to the competing influences of the surrounding area and would respect the existing character and appearance of this part of the Conservation Area and its historic context. Therefore, I cannot agree with the Council's view that there is no justification, in heritage terms, for the range of materials proposed.
12. I consider that securing the highest quality of materials will be essential to achieving the suitable appearance of the building. This can be secured through planning conditions that would require samples of all external materials to be agreed. Further, additional information on the very fine details of the design, such as the joints between the different materials, can also be secured by a planning condition. Overall, I consider that the proposed building represents high quality design and would preserve the character and appearance of the Conservation Area.

13. Further to all of my findings above, I am also mindful that the appellant undertook significant discussions with the Council and Historic England and a number of design iterations have taken place to ensure that the building is as sympathetic to its surroundings as possible. These discussions resulted in both Historic England and the Council's Principle Conservation and Design Officer considering that the scheme was acceptable and would preserve the character and appearance of the Conservation Area. In addition, I have been provided with a copy of the presentation made by the King Street Area Resident's Association to the planning committee on 5 April 2016, which states '*Residents in the King Street Area are relieved that the developers have modified the design of the Hunter Street student accommodation to make it more visually acceptable to local residents*'. I consider that all of these views, particularly those of Historic England as a statutory consultee, add weight to my findings.
14. The Council has suggested that an alternative approach to the scheme's design would be to create something truly contemporary which showcases cutting edge design and creates a new identity for the site showing a clear demarcation between the heritage assets and the new development. However, I must consider the scheme on its own individual merits, which I have found to be acceptable.
15. I have also been referred to the proposed Northgate Redevelopment, which I understand to the best of my knowledge, has yet to gain planning approval. The Council has set out that work is well underway to implement the development plan with the redevelopment of the Odeon Theatre at the top end of Hunter Street, and the relocation of the bus services to Gorse Stacks. Whilst this is noted, there is no evidence before me to suggest that there would be any conflict between the appeal scheme and the Northgate Redevelopment in terms of design or any other matter.
16. In conclusion, for all of the reasons given above, I consider the proposal would preserve the character and appearance of the Conservation Area¹. The scheme therefore complies with Policies ENV5 and ENV6 of the Cheshire West and Chester Local Plan (Part One) (2015) and Saved Policy ENV37 of the Chester District Local Plan (2006). In summary these policies seek to: protect the borough's unique and significant heritage assets; secure high quality design that respects local character; ensure that development is sympathetic to heritage assets; and only allow developments that will preserve or enhance the character or appearance of a Conservation Area. In addition, I also consider that the proposal complies with Paragraph 17 and Section 12 of the National Planning Policy Framework (the Framework).
17. On a closely related matter, I agree with the Council and Historic England that the scheme would not cause any harm to the settings of any nearby listed buildings and would therefore preserve their settings².

Other matters

18. Interested parties are of the view that there is no need for student accommodation within the area and that additional student accommodation is not appropriate for the location, as it would cause harm to the amenity of local residents. Dealing firstly with need, such views are not supported by any

¹ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

² Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

substantive evidence on the matter to persuade me to come to a different view to the main parties. Further, I agree that there is no development plan policy that requires a need to be demonstrated.

19. The student accommodation would be managed and there is no reason for me to believe that there would be any unacceptable impact on the living conditions of local residents from noise, disturbance or litter. Indeed, I understand that revisions were made to the scheme to remove a secondary access so that the only entrance to the building would be from Hunter Street, which would deter students walking along King Street to gain entry to the building. There has been discussion about the Council's Article 4 Direction in relation to Houses in Multiple Occupancy (HMO) and I acknowledge the existing issues in the area in relation to HMOs. However, I understand that the appeal site is not located in such an area. Finally, I am not of the view that an additional 77 student apartments in the area, would unacceptably upset the existing community balance. I am also mindful that the Council do not share any of the above concerns, which adds weight to my findings.
20. Several others concerns are raised with regard to; compromising the One City Plan; increased pressure on car parking; the scheme being an over intensive form of development; and blocking natural light to neighbours. I have considered each of these matters and I consider that there is no evidence to suggest, that with the imposition of suitable planning conditions, there would be any unacceptable harm caused in this relation to such matters.
21. In terms of the Council's concerns with regard to air quality, it is evident from their appeal statement that the Council has seen and considered the revised plans submitted as part of the appeal and has not raised any further concerns. Consequently, it is apparent that the revised plans, which I understand are a result of discussions with the Council's environmental health department, have overcome the Council's concerns and I see no reason to take a different view.

Conditions

22. I have considered the suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required. As well as the standard time limit condition, a condition is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty.
23. Condition (3) is necessary in the interests of the historic environment. Conditions (4) to (7) are imposed to secure the suitable appearance of the scheme. Conditions (8) and (9) are both necessary in the interests of flood risk and the water environment. I have amended Condition (9) to reflect the required distances of Welsh Water as set out within their consultation response. Conditions (10) and (11) are imposed to secure that sustainable modes of transport are encouraged as part of the development. Conditions (12) and (13) are necessary for highway safety. Conditions (14) to (20) are required to ensure that the living conditions of neighbouring residents are protected. I have amended Conditions (14) and (15) to provide an element of flexibility, should works unavoidably need to be undertaken outside of the set times. Condition (21) is imposed to secure suitable living conditions for future occupants. Condition (22) secures biodiversity enhancements. Condition (23) is required to achieve sustainable development.

24. A number of the above imposed conditions relate to pre-commencement activities. In each case, I am satisfied that the requirement of the conditions are necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

Conclusion

25. For the reasons set out above and having regard to all other matters raised, including the strong concerns of local residents, I consider that the proposal complies with relevant development plan policies and represents sustainable development. The Framework advises that such development should be approved without delay. The appeal is therefore allowed.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans:

Site Plan	P01B
Level 0 Floor Plan	P02F
Level 1 Floor Plan	P03D
Level 2 Floor Plan	P04D
Level 3 Floor Plan	P05D
Level 4 Floor Plan	P06D
Level 5 Floor Plan	P07D
St Martin's Way Elevation	P09C
Hunter Street Elevation	P10C
East Elevation	P11C
North Elevation	P12C
Section – North Elevation	P13C
Section – South Elevation	P14A
Location Plan	P16
Detail Elevation 3	P17
Detail Elevation 4	P18
Typical Window Details	P19
Typical Parapet Details 1	P20
Typical Parapet Details 2	P21
Bronze Shingle Images	P22
Textured Brickwork Images	P23
Detail Elevation 1	P24
Detail Elevation 2	P25A

- 3) No development shall commence on site, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation to be submitted to and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
- 4) Prior to the commencement of development at ground level or above, a schedule of materials and external works and material samples/sample panels (samples panels made available to view on site) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved schedule and samples.
- 5) Prior to the commencement of development at ground level or above, large scale detailed drawings (scale 1:10) shall be submitted to and approved in writing by the local planning authority to illustrate the following:
 - window reveals;
 - glazing bars;
 - curtain walling;
 - ventilation apertures – locations and specifications;

- cladding joints on corners and joints between materials;
- materials and construction details for surface treatments to the underside of cantilevered canopies; and
- construction details for boundary walls, retaining walls and entrance gates.

The development shall be completed in accordance with the approved details prior to the building being occupied.

- 6) Full details of hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to occupation. These works shall be carried out as approved prior to occupation. These details shall include:
- i. proposed finished levels or contours;
 - ii. means of enclosure;
 - iii. car parking layouts;
 - iv. other vehicle and pedestrian access and circulation areas;
 - v. hard surfacing materials;
 - vi. minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting, etc.);
 - vii. proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports.);

Soft landscape works shall include a planting plan; written specifications (including cultivation); a schedule of plants noting species, plant sizes and proposed numbers/densities where appropriate.

- 7) The development shall be served by no more than one communal TV aerial and satellite reception system, full details of which (including siting) shall be submitted to the local planning authority for approval in writing prior to the occupation of the development. The development shall be carried out in full accordance with the approved details.
- 8) No development shall commence until the developer has prepared a scheme for the disposal of foul, surface and land water, and included an assessment of the potential to dispose of surface and land water by sustainable means. The scheme shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development.
- 9) No part of the building shall be permitted within 3 meters either side of the centerline of a public sewer.
- 10) Prior to occupation of any part of the development, 20 internal secure cycle spaces, 6 external cycle parking spaces and two permanent disabled car parking bays shall be completed and made available for use, in accordance with details that have been submitted to and approved in writing by the

local planning authority. These provisions shall be retained thereafter for such purposes.

- 11) Within six months of occupation of any part of the development a Full Travel Plan for the scheme shall be submitted to and approved in writing by the local planning authority, in consultation with the local highway authority. The Travel Plan shall include provision for the appointment of a Travel Plan Coordinator. The Travel Plan shall be implemented as agreed. The implementation of the Travel Plan shall be reviewed on a regular basis, details of which shall be set out within the initial approved Full Travel Plan. Any further measures identified and approved through the review process shall be implemented in full within a timescale to be submitted to and agreed in writing by the local planning authority, in consultation with the local highway authority.
- 12) Prior to the commencement of the development, a construction related Traffic Management Plan detailing: temporary traffic management measures affecting the public highway; the phasing of the demolition and construction traffic for the development, including temporary highway vehicle and pedestrian routings; times and days of large vehicle movements to/from the site; suitable off-highway parking for all construction-related vehicles; and vehicle cleansing/ wheel washing facilities shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.

Any changes to, or additional requirements for, such temporary works arising during the construction period shall be submitted to and agreed in writing with the local planning authority, in consultation with the local highway authority and Police prior to the implementation of those works.
- 13) Prior to the commencement of any development, the developer shall submit to and have approved in writing by the local planning authority full detailed plans in respect of any works required within the highway. The works shall only be carried out in strict conformity with the approved details and shall be completed prior to first occupation of the development, unless otherwise agreed in writing with the local planning authority.
- 14) No demolition and/or construction works shall take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No works shall be carried out at any time on Sundays or Bank Holidays. In exceptional circumstances alternative timeframes/periods may be agreed in writing with the local planning authority to deal with particular construction programming issues.
- 15) During demolition and/or construction works hereby permitted no deliveries shall be taken at or dispatched from the site outside the hours of 09:30 to 15:30 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No deliveries shall be taken or dispatched at any time on Sundays, Bank Holidays or Public Holidays. In exceptional circumstances alternative timeframes/periods may be agreed in writing with the local planning authority to deal with particular construction programming issues.
- 16) Prior to the commencement of development, which for the avoidance of doubt shall be taken to include any site preparation, demolition or

construction activity, a Dust Control Scheme shall be submitted to and approved in writing by the local planning authority. No demolition or construction works shall take place except in accordance with the approved scheme.

- 17) No operations requiring piling or subsurface vibration ground improvement techniques shall be carried out on the site until details of the work, monitoring and environmental controls proposed have been submitted to and approved in writing by the local planning authority. All such works shall be undertaken in complete accordance with the approved scheme.
- 18) No development, including site preparation works, shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for:
 - i. details of construction traffic phasing;
 - ii. the parking of all vehicles;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials;
 - v. the erection and maintenance of a site office, construction compound and security hoardings;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of dust, dirt, noise, vibration and light during construction; and
 - viii. a scheme for recycling/disposing of waste resulting from construction works.
- 19) Prior to the installation of any plant/mechanical extraction for the proposed development, a scheme to control noise from the premises shall be submitted to and approved in writing by the local planning authority. The scheme shall ensure that the rating level of noise emitted from all plant associated with the scheme shall be 5dBA below background noise levels (as measured as an LA90) at any time as measured at the nearest noise sensitive receptor. The measurements shall be made in accordance with BS 4142:2014 'Method for rating industrial noise affecting mixed residential and industrial areas'. The scheme shall be implemented in full prior to the operation of the site and retained thereafter. All equipment shall be maintained in accordance with the manufacturer's recommendations.
- 20) Prior to occupation or use of any part of the development, a scheme detailing all external lighting equipment shall be submitted to and approved by the local planning authority. Any lighting scheme shall be designed in accordance with the Institution of Lighting Professionals document "Guidance Notes for the Reduction of Obtrusive Light". The scheme shall include full details of: the equipment and supporting structures, together with isolux drawings to demonstrate the levels of illumination within the site and the amount of overspill of lighting beyond the site boundaries; and the hours of operation.

The approved external lighting plan shall be implemented in accordance with the approved details and thereafter retained. No other external lighting equipment may then be used within the development.

- 21) Prior to the commencement of development at ground level or above, a scheme of sound insulation shall be submitted to and approved by the local planning authority. The scheme shall ensure that the following internal noise measurements are met:
- i. An internal noise level within habitable rooms during the day (07.00-23.00hrs) of 35dB(A)LAeq,16hrs.
 - ii. An internal noise level within bedrooms during the night (23.00-07.00hrs) of 30dB(A)LAeq, 8hrs and 45dB(A)LAm_{ax}.
 - iii. Noise levels within external living areas such as balconies, terraces and gardens during the day (07.00-23.00 hours) of 50dB(A)LAeq, 16hrs.

The internal noise levels shall be achieved with windows open or with other adequate means of ventilation provided, in accordance with current necessary requirements. The approved scheme shall be implemented and completed prior to the occupation of any of the units and shall be retained at all times thereafter.

- 22) Prior to the commencement of development above ground floor level, a scheme for the provision of bat and bird boxes within the site shall be submitted to and approved in writing by the local planning authority. The bat and bird boxes shall be installed as agreed and prior to occupation of the development and be retained on-site thereafter.
- 23) Within three months of the commencement of development, full details of the design and location of refuse disposal and recycling facilities shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the agreed details prior to the first use of the development hereby approved and adhered to thereafter.