
Appeal Decision

Site visit made on 5 December 2016

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 06 December 2016

Appeal Ref: APP/A0665/W/16/3159197

90-92 Lower Bridge Street, Chester, CH1 1RU

- 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 M Gilfoyle against the decision of Cheshire West & Chester Council.
 - The application Ref: 16/01577/COU dated 12 March 2016, was refused by notice dated 8 June 2016.
 - The development proposed is change of use from tea room to bed and breakfast.
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider there are two main issues in this case. Firstly, the effect of the proposal on the character and vitality of the secondary shopping street; and secondly, whether the proposal would preserve the special architectural and historic interest of the Grade II listed building.

Reasons

3. The appeal relates to the ground floor of a Grade II listed building within the Chester City Centre Conservation Area. The proposal is to convert the existing tea room to a four bedroom bed and breakfast. The submitted plans show that some existing stud walls would be removed, and others installed, to form four en-suite bedrooms; two at the front of the building facing the street, and two at the rear facing the narrow yard. Entrance would be via the existing street door that serves the flat on the first floor, which would continue to be occupied by the appellant. The existing shop frontage and doorways would be retained as part of the scheme.

Character and vitality of the secondary shopping street

4. The west side of Lower Bridge Street (from Grosvenor Street to Bridge Gate) is identified as a Secondary Shopping Street in saved Policy RET 3 of the *Chester District Local Plan* (CDLP). Within these streets the policy advocates retail uses but permits A3 uses such as the existing where they would stimulate pedestrian flow and not harm the street's character. Although a bed and breakfast use is not specifically referred to in the policy, it says that when considering other uses appropriate to the city centre, regard will be given to the existing character of the street and area, trends in shopping patterns in the

city, and the existing provision of non-retail uses. The explanatory text sets out that although secondary streets do not form part of the core shopping centre, they are important links to the main shopping streets, and in order to retain their character 'dead' frontages and uses which do not attract the public will be avoided. The supporting text clarifies that a mix of non-retail uses will be permitted where the predominantly retail function is not undermined.

5. The Council says the proposed use would result in less pedestrian traffic, and that any attempt to obscure views into the front rooms would result in a blank appearance which would have a deadening effect on the streetscene. I am also aware that approval of the proposal would result in the adjacent public house being the only Class A use in this section of Lower Bridge Street between Bridge Gate and Shipgate Street.
6. However, I have considerable sympathy with the appellant's argument that Lower Bridge Street is somewhat divorced from the city's main shopping area, as recent trends in retail activity and new developments mean that the main shopping areas are now firmly established well to the north of the site. Although Policy RET 3 suggests that a continuous row of more than two non-retail uses will have a detrimental effect on the retail character and function of a shopping street, there are currently only three Class A1 retail units (out of 30) on the west side of Lower Bridge Street, and only three retail units (out of 19) on the east side (within the secondary shopping street frontage). Whilst there are other food and drink establishments, and a considerable number of estate agents, it seems to me that the character of Lower Bridge Street (particularly at its lower end) has changed considerably in recent years, and its shopping function is now low-key and peripheral. Indeed the southernmost part of Lower Bridge Street below Duke Street and opposite the appeal site (although not covered by Policy RET 45) is now almost entirely residential.
7. The Council says there is no evidence that the property has been marketed in favour of a new Class A use. However, there is no policy requirement to carry out such a marketing exercise, and I have no reason to doubt the appellant's statement that the existing use is no longer viable, due in part to a significant reduction in pedestrian footfall along this section of the street. Overall on this issue I conclude that the proposed change of use would not significantly harm the character and vitality of the secondary shopping street. Whilst I share the Council's concerns about the blank appearance of the former shop front windows that would occur as a result of the proposal, I do not find this concern sufficient reason alone to alter my conclusion on this issue.

Special architectural and historic interest of the building

8. Paragraph 132 of the *National Planning Policy Framework* (the Framework) sets out that when considering the impact of a proposal on the significance of a heritage asset, great weight should be given to that asset's conservation. It goes on to say that significance can be lost through alteration or destruction of the heritage asset. Paragraph 128 places the onus on applicants to describe the significance of any heritage assets affected. The level of detail should be proportionate and no more than is sufficient to understand the potential impact of the proposal on that significance.
9. Saved CDLP Policy ENV 45 says permission will be refused for proposals that fail to have regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it

- possesses. It says sufficient information must be supplied prior to determination, and that the applicant must demonstrate that the proposed works are necessary and desirable. Policy ENV 5 of the *Cheshire West and Chester Local Plan* (CWCLP) has similar aims and requires development to respond positively to the heritage assets and their settings, avoiding loss or harm to their significance.
10. The listed building entry describes the building as a town house, probably of 15th century origin, with many alterations being made in subsequent centuries. The shop front and doorways are said to date from the early 19th century. Features of the ground floor interior are also mentioned in the entry, including the large central chimney stack, a chamfered cross beam, timber posts in the side wall and a studded south wall.
 11. The appellant has not attempted to describe the significance of the building or evaluate the impact of the proposed works on that significance. Nor has a companion listed building consent application been made as would normally be the case; the appellant saying that the business is not in a position to fund the level of detail that would be required (including a heritage statement) without some assurance concerning the future economic viability of the building.
 12. Information submitted in support of the appeal states that the partitions to be removed are recent additions which are not part of the original fabric, and new partitions will be bolted to the existing concrete floors with their top plates secured to the existing first floor joists. It is also stated that other interior walls are additions to the building which "can easily be removed". 2m high false timber screens are proposed behind the street front windows to allow light to enter the letting bedrooms from above. However no details of these have been included to show whether the rooms would be adequately lit or ventilated by this arrangement, irrespective of their impact on the significance of the building and its appearance from the street.
 13. Without details to show how the potential impact of the proposals on the significance of the building I am unable to conclude whether any harm would be caused, the degree of significance of any harm, or indeed whether any harm would be outweighed by public benefits such as to justify the works. Quite apart from the lack of a heritage statement or assessment of significance accompanying this application, the submitted details are an inadequate basis on which to properly assess the impact.
 14. Consequently I cannot be satisfied that the proposal would preserve the special architectural and historic interest of the Grade II listed building. As such it would conflict with CDLP Policy ENV 45, CWCLP Policy ENV 5, and National Policy in the Framework. For the same reason, and as in accordance with the statutory duty imposed by Section 72 (1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* Act, I cannot be satisfied that the character or appearance of this part of the conservation area would be preserved.

Conclusion

15. I have concluded that the proposal change of use would not materially harm the character and vitality of the secondary shopping street. Nonetheless, this does not outweigh the potential harm that could be caused to the special architectural and historic interest of the Grade II listed building in the absence of adequate detail and information to properly assess the proposed works. My

conclusion on this issue amounts to a substantial and overriding objection which must be decisive. As such, the proposal would conflict with the development plan's policies when taken as a whole.

16. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR