The Planning Inspectorate

Appeal Decision

Site visit made on 20 December 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 23 January 2017

Appeal Ref: APP/P4605/W/16/3160422
8-16 High Street, Erdington, Birmingham B23 6RH

- 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 Made Architecture Ltd against the decision of Birmingham City Council.
- The application Ref 2015/03504/PA, dated 2 May 2015, was refused by notice dated 31 March 2016.
- The development proposed is demolition of existing buildings and erection of a three storey mixed use building comprising three retail units and twenty six apartments with associated parking and landscaping.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Made Architecture against Birmingham City Council. This application is the subject of a separate Decision.

Procedural Matter

3. Although the Council's reason for refusal references various saved policies of the Birmingham Unitary Development Plan (2005) those policies have been superseded by new policies in the Birmingham Development Plan (BDP) which was adopted by the Council on the 10 January 2017. Both parties have set out in their appeal statements their views as to the relevance and application of BDP Policies PG3 and TP27 (referenced as TP26 in the earlier draft of the plan) and there is no prejudice to the interests of either party in my determining the appeal with reference to the newly adopted plan.

Main Issues

4. The main issues in the appeal are:
   (a) Whether the proposal would result in the unacceptable loss of non-designated heritage assets;
   (b) The effect on the setting and significance of the designated heritage assets comprised in the Church of St Thomas and St Edmund and the former Erdington Abbey; and
   (c) The effect on the character and appearance of the surrounding area.

Reasons

Non-designated heritage assets

5. The appeal site is occupied by five 3 storey (2 plus attic), late Victorian buildings comprising shop units at ground floor level with living accommodation above. Three of the 5 retail units are vacant and I understand that the upper floors are also unused. A former carriage entrance between numbers 10 and 12 provides access to a rear yard within which there are various outbuildings.

6. The appellant's Heritage Statement indicates that the main properties were constructed between 1889 and 1891 although some of the outbuildings are later additions. Substantial internal alterations have been made to the ground floor areas and none of the shop fronts are original. However, my observations on my site visit support the Heritage Statement's findings that significant elements of the original framing to the shop fronts remain and the more modern fascias are likely to have obscured rather than replaced the original fascias. The archway and associated detailing to the carriage entrance remains intact. The canted bay windows to the first floor level remain in situ, mostly with their original lights, and each with a cornice that lines through with the decorative cornice in the facing brickwork between the windows. Five timber framed attic gables each have window openings that line through with the first floor bays and there is a sixth, narrower gable over the flat first window above the carriage entrance. Gabled dormers provide visual interest to the rear roof slope and the original chimneys appear largely intact.

7. The terrace of properties is of substantial scale and of an attractive and imposing design which creates a strong presence in the street scene. As the Heritage Statement notes the terrace is an ornament to the streetscape and a visible reminder of a crucial period in the history of the development of Erdington Village and the outward expansion of Birmingham. For these reasons, and because so many of its external features remain intact, I find that Numbers 8-16 should properly be regarded as non-designated heritage assets of moderate local significance, notwithstanding that they have not been included in any statutory or local list of buildings of historic or architectural importance.

8. Paragraph 135 of the National Planning Policy Framework (Framework) states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application (or appeal). In weighing applications that affect such assets a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. In this case the harm would be substantial since the proposal would result in the wholesale loss of the non-designated assets.

Setting of the designated heritage assets

9. The Church of St Thomas and St Edmund (Grade II), the former Erdington Abbey (now Highclare School) (Grade II) and Abbey Hall (Grade II) are all individually listed and have significant group value, occupying an extended area of churchyard and gardens enclosed by medium height boundary walls, the church lych gate and wrought iron gates to the main school entrance. The appeal site lies within about 65 metres (m) of the former abbey. There is

intervisibility between the two building groups and the two groups can be seen together in views from the south. I agree with the observations of one of the local objectors that, together, the terrace of properties on the appeal site and the substantial, Cross Keys public house building on the opposite side of the road help to frame views of the abbey and church when viewed from that direction.

10. For these reasons I concur with the findings of the Heritage Statement that the buildings on the appeal site are within the setting of the listed church and former abbey and that they make a positive contribution to that setting. That contribution is enhanced for the reason that, dating from much the same period as the former abbey, they enrich its historical context and because they retain so much of their original appearance and have their own architectural merit. By making so positive a contribution to their setting the existing buildings on the appeal site enhance the significance of the listed buildings as individually designated assets and of their group value. The wholesale removal of the Victorian terrace and its replacement with a building of the modern design proposed would result in significant harm to that setting and to the significance of those designated assets.

11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that, when considering whether to grant planning permission for development which affects a listed building or its setting the Secretary of State should have special regard to the desirability of preserving the building or its setting. The judgment in the Barnwell Manor case[1] confirms that the statutory duty set out in section 66(1) requires that I should give considerable importance and weight to the desirability of preserving the setting of the listed buildings in my determination of the appeal.

12. I agree with the appellant's heritage consultant (paragraph 6.1.14 of the Heritage Statement) that the resultant harm would be less than substantial. However, I note that, although the Heritage Statement drew attention to the requirement, in paragraph 134 of the Framework, that such harm should be weighed against the public benefits of the proposal, the need for that balancing exercise does not appear to have been addressed in the appellant's statement of case and no public benefits are expressly set out in that statement.

13. The officer report identified the removal of the existing dereliction associated with the vacant units and relatively poor condition of the terrace as a public benefit of the proposal. Whilst such an outcome would be beneficial insufficient evidence has been submitted to demonstrate that this could not be achieved by the restoration and re-use of the existing shops and living accommodation.

14. The appellant asserts that underpinning works and removal of all floor and roof structures and coverings would be needed as part of any restoration scheme but no structural survey has been submitted to substantiate those assertions. The financial viability assessment submitted with the appeal demonstrates the marginal viability of the appeal proposal but does not

[1] Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWHC 473 (Admin)

address the likely costs and viability of any alternative scheme for making use of the existing buildings. Accordingly, I am unable to give any weight to this potential benefit of the proposal.

15. The provision of 26 apartments would provide social benefits by contributing to the supply of housing in the local area. The proposal would also provide some economic benefits in terms of construction investment and employment and the creation of new retail units. However, the marginal viability of the proposal means that it is unable to make the financial contributions towards the public open space, children's play and educational provision that might otherwise have been expected.

16. The appellant states that the Council is unable to demonstrate a five year forward housing land supply and, in that context, the contribution which the proposal would make to the supply of new housing in the City should be given significant weight. Some weight must also be given to the economic benefits which I have identified above. However, having regard to the statutory duty under section 66(1) of the 1990 Act and to the policy in paragraph 132 of the Framework that, when considering the effect of a proposed development on a designated asset, great weight should be given to the asset's conservation, I do not consider that these public benefits of the scheme would be sufficient to outweigh the harm that would be caused to the setting and significance of the designated heritage assets. Accordingly I find that the proposal would be contrary to paragraph 134.

Character and appearance

17. As well as framing views of the group of listed buildings to the north, the existing terrace and the Cross Keys PH opposite also help to provide enclosure to the junction of High Street with Edwards Street and Station Road. The existing buildings are clearly visible in views from the south and, when viewed from the junction of High Street and Sutton New Road, their form and scale convey the sense of the town centre extending further to the north. The terrace is of an imposing and attractive style and, notwithstanding its current, neglected condition, makes a positive contribution to the street scene in this part of Erdington.

18. BDP Policy PG3 states that all new development will be expected to demonstrate high quality design and that new development should reinforce or create a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context including heritage assets and appropriate use of innovation in design.

19. Although the proposal would replace the built frontage to the site and would have a similar mixed use as the existing terrace there is little evidence that its design has been developed in response to the local area context or that it would help to create either a positive sense of place or local distinctiveness.

20. The Design and Access Statement includes no analysis of the design context provided by other nearby buildings or groups of buildings or of the site's relationship with the group of listed buildings. Although the retail development proposed on the land to the north is mentioned in the appeal statement this is not referred to in the Design and Access Statement. Neither

is there any assessment of how the proposal would relate to the residential development on the Sutton Road frontage of the adjoining site for which outline planning permission has been granted.

21. The proposed replacement building is described as being of modern and simple design and, whilst I do not disagree with that assessment, I do not consider it to be an appropriate design for the appeal site. Notwithstanding the curved glazing to the shop units and the proposed entrance to the courtyard the ground floor street elevation would be of relatively plain appearance compared to the detailing within the existing terrace at ground floor level. Some interest would be provided by the deep window reveals but the first and second floor elevations would appear as a large and relatively flat façade and I consider that the proposed parapet would read as a relatively weak design feature. These elevations would project above the eaves of the adjacent buildings at numbers 18-22 High Street and the flat roof would sit uncomfortably with the front roof slope and ridge line of those properties. At the other end of the site the proposal would present a large blank brick elevation which would prominent in view to those travelling towards the town centre from the north. I agree with the Council that this elevation would be over dominant in those views.

22. Due to the limited visual interest on its principal elevation and the use of a flat roof the proposed building would be unlikely to have a strong presence in the street scene. It would be a poor replacement for the existing terrace in terms of helping to frame views of the listed group or enhancing their setting, of helping to enclose the nearby road junction, and of signalling the continuation of town centre uses beyond the High Street/ Sutton New Road junction. In light of these considerations I find that the proposed design does not respond positively to the site's context including the designated heritage assets, that the building would enhance neither the street scene nor local distinctiveness, and that the proposal would cause harm to the character and appearance of the local area.

23. I conclude that the proposal would BDP Policy PG3. The Council also referred to Policy TP26 (now TP27 in the adopted Plan) in its reason for refusal but I have seen no evidence that the proposed apartments would not contribute to the creation of a sustainable neighbourhood and, hence, do not consider that the proposal conflicts with that policy.

Conclusions

24. For the reasons set out above I find that the proposal would cause less than substantial harm to the setting and significance of the Grade II listed church and former abbey and that that harm would not be outweighed by the limited pubic benefits of the scheme. Paragraph 132 of the Framework states that great weight should be afforded to the conservation of designated heritage assets and section 66(1) of the 1990 Act requires that considerable importance and weight be given to the desirability of preserving the setting of the listed buildings.

25. I have also found that the proposal would result in the wholesale loss of a terrace of properties which themselves constitute non-designated heritage assets of moderate local importance. Having regard to the statement at paragraph 135 of the Framework, I consider that the loss of these assets weighs heavily against the proposal, particularly in the absence of clear

evidence that demonstrates that their restoration and reuse for retail, residential or any other beneficial use could not reasonably be achieved.

26. The appellant has not demonstrated how the proposed design of the appeal scheme has been developed in response to the local context. In my judgement the design quality of the proposed building would not be appropriate to the site's context and the proposal would have an adverse effect on the character and appearance of the surrounding area. It would also provide a poor replacement for the existing Victorian terrace in terms of its positive contribution to the street scene and to the setting of the listed buildings.

27. The proposal would provide 25 new apartments and significant weight should be attached to that contribution to the supply of new housing in the area. Weight must also be given to the economic benefits of the proposal as set out in paragraph 14 above. However, I find that these benefits would not be sufficient to outweigh the harm that I have identified or the resultant development plan conflict.

28. For these reasons, and having regard to all matters raised, I conclude that the appeal should fail.

Paul Singleton

INSPECTOR