

Appeal Decision

Site visit made on 20 February 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 14 March 2017

Appeal Ref: APP/H0928/W/16/3164778

Former Car Park, Brentfield Way, Penrith CA11 8DS

- 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 Ms J Ruffley on behalf of Atkinson Homes Ltd against the decision of Eden District Council.
 - The application Ref 16/0739, dated 4 August 2016, was refused by notice dated 15 September 2016.
 - The development proposed is erection of 9 two-storey dwellings with associated car parking, accessed from Brentfield Way.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would preserve or enhance the character and appearance of Penrith Conservation Area, and;
 - the effect on highway safety, with particular regard to parking arrangements.

Reasons

Character and appearance

3. Penrith Conservation Area covers the historic core of the town centre and its residential fringe. The historic core is characterised by a tightly packed form of development with narrow streets arranged within a dense medieval street pattern towards its centre. The character of the Conservation Area changes towards its edges and as the land levels rise into a more spacious and planned form of development that assists the transition to the suburban pattern of development in surrounding areas. The spacious form of development at the edge of the Conservation Area and elevated land levels relative to the historic core offer landscape views of the town centre. This includes views of the transitional roofscape arising from the reducing land levels, building hierarchy and irregular street patterns that are characteristic of the town centre, which positively contribute to the historic significance of the Conservation Area.
 4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
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Paragraph 131 of the National Planning Policy Framework (the Framework) requires that account be taken of the desirability of sustaining and enhancing the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation. The Framework also makes it clear that significance can be harmed or lost through alteration of a heritage asset or development within their setting.

5. The site is located within the Conservation Area at its north eastern edge and one of its highest vantage points at the corner of Brentfield Way and Friars Road. The land is enclosed by dry stone boundary walls to the frontages onto the adjoining roads and has progressively sloping land levels downward towards a single storey guide hut and palisade fencing to the south west. The established use of the land as hardstanding for car parking is a modern and contrasting feature to surrounding buildings. However, the site contributes to the spaciousness of the area and preserves the historic significance of the Conservation Area due to its openness which offers unique and unobstructed views of the dense medieval townscape and transitional roof forms from Brentfield Way and toward the junction with Friars Road.
6. The development would comprise 9 two-storey dwellings in a layout consisting of a row of 4 terraced properties facing Friars Road, together with 2 pairs of semi-detached properties and a detached dwelling facing Brentfield Way in a set back position with building lines broadly parallel to the guides hut. The resultant layout would be an asymmetrical T-shape with one of the pair of semi-detached properties projecting with a considerable gable end beyond the front building line of the terraced row facing Friars Road. From this perspective, the side gable of the semi-detached property would have incompatible proportions when compared with a narrower gable fronted property visible at the opposite end of the terrace. The terraced row would also sit forward of the front building lines of properties facing Brentfield Way.
7. As a consequence of the layout, irregular front building lines, incompatible gable designs visible along Friars Road and shallow depth of front and rear gardens, the dwellings would be viewed as an unconnected, incongruous and cramped form of development relative to their surrounding street scenes. The character and appearance of individual dwellings, pairs of semi-detached properties and terraces in the surrounding area is varied. However, surrounding buildings are typically set within more spacious plots with a coherence and transition of front building lines, form and proportions which would be harmfully interrupted by the development.
8. The comparable scale and massing of buildings nearby within the Conservation Area which face Friars Walk and the use of complementary materials and fenestration to surrounding dwellings would not mitigate the harm identified. Furthermore, the harmful effect of the development would be emphasised by the inclusion of solar PV panels. Although solar PV panels are a visible feature of the roofscape of properties outside of the Conservation Area, they would be viewed as an incompatible feature relative to the historic character of buildings within the Conservation Area. In this respect, the solar PV panels would emphasise the incongruous nature of the development, particularly those

prominently positioned on the south east elevation which would draw attention to the dwellings that would face onto Friars Road.

9. There would be minor benefits of the development through the screening of the guide hut and security fencing which consist of materials that are inconsistent with the historic character of the Conservation Area. Nevertheless, any benefits in this respect would be significantly outweighed by the harm identified. The harm would be significant relative to the site and the immediate surroundings of the proposal at the edge of the Conservation Area. However, the harmful effect would be localised, in terms of the impact of the incongruous and cramped layout of development upon the spaciousness of the area. There would be a loss of some landscape views of the wider Conservation Area due to the increase in scale, bulk and massing within the site. However, landscape views would remain available across the parking courtyard and to the rear of 8 Brentfield Way. Consequently, the harm would be less than substantial to the significance of the Penrith Conservation Area.
10. There are public benefits of the development in terms of the contribution to housing supply of 9 dwellings in circumstances where the Council accepts it cannot demonstrate a 5-year supply of deliverable housing sites. There are also associated benefits in terms of energy efficiency and the aforementioned benefit of screening the guide hut and security fencing from wider landscape views. However, the extent of those benefits, taken individually or in cumulative do not outweigh the great weight given to the conservation of Penrith Conservation Area and the less than substantial harm to its significance which I have identified.
11. I conclude that the development would fail to preserve or enhance the character and appearance of Penrith Conservation Area. The proposal conflicts, therefore, with Policies CS17 and CS18 of the Eden District Council Core Strategy Development Plan Document (CS), adopted March 2010. When considered together the policies seek to ensure that new development is of a high quality design, and conserve and enhance buildings, landscapes and areas of historic interest, including conservation areas and their setting. The policies are consistent with the Framework to which there is also conflict.

Highway safety

12. Policy CS18 of the CS, amongst other things, requires safe access to the site by a choice of means of transport and meets the access needs of all users, particularly pedestrians, cyclists, disabled people and the elderly. In this regard, the site has an existing access from Brentfield Way which would serve the proposed car parking area and also continue to provide vehicular access to the guides hut. I observed that the access has adequate visibility splays in both directions. On-street parking is restricted by double yellow markings surrounding the access, except for a recessed bay with capacity for 2 vehicles and access to garages at the front of Nos. 6 and 8 Brentfield Way. Consequently, I am satisfied that safe and suitable access to the site can be achieved for all people and it is reasonable that the traffic movements associated to the development would be significantly less than the previous use of the site as a car park.
13. The Council have referred to conflict with Policies LD7 and LD8 of the Local Transport Plan 2006-2011 (LTP), the former of which requires compliance with the Cumbria Design Guide and the Parking Guidelines for Cumbria, published

1997. The guidelines within the latter document are expressed as a minimum and require 2 spaces per 2 bedroom dwelling and 2.5 spaces per 3 bedroom dwelling. The development consists of 1 No. 2 bed dwelling and 8 No. 3 bed dwellings and on that basis, a total of 22 off street spaces would be required to comply with the guidelines. The proposed car parking area would consist of 12 car parking spaces for off street parking, with 2 of the proposed spaces positioned in a tandem arrangement behind other spaces.
14. Notwithstanding the above, a footnote to the guidelines states that no provision for visitor parking is likely to be necessary in town and urban developments where there is easy access from public transport and from public car parks; resident parking may also be reduced but should still remain a minimum requirement of 1 space per dwelling. The site is not within the town centre, but is within close walking distance of it. There are bus stops on Brentfield Way and Penrith bus station is located nearby on Sandgate, where public car parks are also located. In such circumstances, I consider that the site falls within the definition of an urban development where there is easy access from public transport and public car parks. Consequently, to my mind, a minimum requirement for parking of 1 space per dwelling should reasonably be applied to the development in accordance with the guidelines, which would be exceeded by the proposal (i.e. 12 spaces proposed relative to a calculated requirement of 9 off street parking spaces).
15. In reaching the above findings, I have taken into account that the Council and Cumbria County Council have identified an alternative requirement of 2 off street parking spaces for each dwelling to reflect the location of the site. Concerns have also been expressed regarding the potential for increased off street parking and existing parking problems in the area. However, no substantiated evidence has been provided in those respects or in terms of any highway safety issues which would otherwise result.
16. On-street parking along the site frontages and in close proximity to the neighbouring junctions and a pedestrian crossing is restricted by double yellow markings. The car parking provision within the site is no longer in use and I observed that a significant number of properties in the surrounding area have less than 2 off street spaces with some not served by any off street parking provision. Nevertheless, there is no evidence before me that existing demand for on-street parking has resulted in illegal parking that would be detrimental to highway safety. At the time of my visit, I observed significant availability of on-street capacity for parking in surrounding roads where they are not subject to parking restrictions. There is no evidence before me that the development would necessitate overspill parking requirements that would require additional on-street parking. However, I am satisfied, in any case, that it could be accommodated in the wider area where vehicles would not represent an unacceptable risk to safety or interrupt the free flow of traffic.
17. According to Cumbria County Council, the accident record along Brentfield Way in the last 5 years includes 1 slight accident to the north west of the site and 1 serious accident on the section to the south east of the site. However, the full details and specific locations of those accidents are not before me and therefore, I cannot presume that they had any relationship to use of the site access or existing parking arrangements.

18. I conclude that the development would not have a detrimental impact on highway safety, including in terms of parking arrangements. The proposal, therefore, would not conflict with Policy CS18 of the CS or Policies LD7 and LD8 of the LTP and the associated guidance in the Cumbria Design Guide and the Parking Guidelines for Cumbria. The policies in the CS and LTP and associated guidance, although preceding the publication of the Framework are broadly consistent with its relevant core planning principles and policies.

Other Matters

19. As previously mentioned as part of the main issues, the proposal would make a contribution to housing supply and choice in Eden of 9 dwellings, including economic benefits during construction and support for local services after occupation, which carries significant weight in favour of the development. There would also be further benefits in terms of energy efficiency of the dwellings and re-use of a previously developed site to which I attribute limited weight based on the scale of development proposed.
20. I am satisfied that the impact of the development on the living conditions of occupiers of neighbouring properties facing Brentfield Way, Friars Road and Friars Walk would not be significant. The separation distances between the dwellings and neighbouring properties would prevent any impact on outlook and the oblique angle of interface between windows in main elevations would prevent an unacceptable loss of privacy. Furthermore, the living environment for future residents would be satisfactory in terms of internal living space and amenity space. The development could also make satisfactory provision for storage and disposal of waste and foul and surface water drainage subject to appropriate conditions being imposed if the appeal were to be allowed. However, the absence of concern in those respects is a neutral factor which does not weigh in favour of the development.

Planning Balance

21. The site is in an accessible location in close proximity to the town centre where a range of facilities and services are available, where the principle of residential development is not a matter of dispute between the parties and the Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. Taking account of paragraph 49 of the Framework, the relevant policies for the supply of housing are not up-to-date and paragraph 14 of the Framework is engaged.
22. In such circumstances, where the development plan is absent, silent or relevant policies are out of date, permission should be granted, unless there any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or, specific policies in the Framework indicate development should be restricted. The latter criterion is supported by a footnote which, amongst other things, specifies that such policies incorporate those relating to designated heritage assets, a definition which includes conservation areas.
23. With regard to the above, I have found no harm with respect to the highway safety which is a neutral factor, together with the absence of harm relating to other matters. Furthermore, I have considered the public benefits of the development, including those associated to the contribution to housing supply in an accessible location. When taken together they are significantly and

demonstrably outweighed by the great weight given to the conservation of Penrith Conservation Area and the less than substantial harm to its significance which I have identified. The development, therefore, conflicts with the development plan and the Framework, when taken as a whole, including the specific policies which indicate development should be restricted in the context of the decision taking approach set out at paragraph 14 of the Framework. Consequently, the proposal is not sustainable development as defined by the Framework.

Conclusion

24. For the above reasons and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR