
Appeal Decision

Site visit made on 30 May 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 22nd June 2017

Appeal Ref: APP/T3725/W/17/3170273

Priors Club, Tower Street, Leamington Spa CV31 2DR

- 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 Kuldeep Dhesi against the decision of Warwick District Council.
 - The application Ref W/16/1705, dated 13 September 2016, was refused by notice dated 10 February 2017.
 - The development proposed is the erection of 5 No cluster flats incorporating 26 No bedrooms with en-suite facilities and ancillary living space for occupation as student accommodation, together with covered car parking for 6 No cars, refuse bin store, meter room, secure cycle storage area, landscaping, security railings and associated gates following the demolition of The Priors Club.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Kuldeep Dhesi against Warwick District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are
 - whether the development would preserve or enhance the character or appearance of the Royal Leamington Spa Conservation Area; and
 - the effect of the development on highway safety and the living conditions of neighbouring residential properties in respect of parking provision.

Reasons

Character and Appearance

4. The appeal site is located within the Royal Leamington Spa Conservation Area (the CA). The area around the appeal site is mixed use in character, consisting of retail, commercial and residential properties. The appeal site is located to the rear of the historic retail area of Clemens Street, which predominantly comprises C19th, three-storey properties with many retaining their traditional shop frontages. Whilst there have been alterations to the ground floor frontages of many of these properties, the upper floors appear to remain

- largely unaltered. Immediately to the south of the site is the canal, the bridge over which links Clemens Street, Brunswick Street and Ranelagh Terrace.
5. The open space between properties on Clemens Street and Brunswick Street, as a result of the intersecting canal, provides a break in the built-up frontage of both of the streets. Furthermore, this open space highlights the prominence of the end terrace properties, including No 43 Clemens Street, behind which the appeal site is located.
 6. No 41 and No 43 Clemens Street form a pair of mirrored properties that form part of a terrace row that are good examples of early C19th buildings that follow a similar architectural theme. No 43 is the end terrace and sits almost adjacent to the canal and the bridge. The painted rendered finish of this pair of properties is in marked contrast to the brick finish of other properties in the terrace and emphasises its prominence, particularly when viewed on approach from the south. Whilst these properties are not statutory listed, they nevertheless make an important contribution to the streetscene and the overall CA.
 7. Overall, the consistency of building design styles and the prominence of No 43 in the streetscene make a positive contribution to the character and appearance of the CA.
 8. The appeal site currently comprises Priors Club, which is a C19th brick building that has evidently been altered over the years. The building lacks any architectural merit and does not make any positive contribution to the significance of the CA. Nevertheless, it is single-storey in height and largely screened from view from the road by being situated behind No 43 Clemens Street. Furthermore, it is on a lower ground level than the road. Consequently, it has a subservient relationship with No 43 and does not significantly detract from the streetscene or the significance of the CA.
 9. The proposed building would be three-storeys high at the point that it adjoins No 43 and would rise to four-storeys at its eastern end and would provide a visual link between the three-storey development on Clemens Street and the development currently under construction to the east, referred to as the Alumno scheme. The height of the building would be below that of No 43. The building would be of a simple form with solid to void ratios similar to the nearby historical buildings. As a result of its proximity to No 43, the proposed building would appear as an extension to it.
 10. Notwithstanding the above, the building would extend a significant distance beyond the rear elevation of No 43, resulting in it having a considerably greater mass. As a consequence, the building would dominate No 43 and fail to respect the prominent role it plays in the streetscene. Furthermore, it would infill much of the open space around No 43, which assists in highlighting its prominence. Whilst views of the building would be limited from Clemens Street and Brunswick Street, it would nevertheless clearly be visible from the canal bridge and from the junction of Ranelagh Terrace and Brunswick Street, appearing as an unduly dominant feature that would draw the eye away from the attractive setting of Clemens Street. Consequently, the proposed building would detract from the character and appearance of the CA.
 11. The Council also raise concern regarding the slot windows in the south west elevation. However, it is not clear which windows the Council is referring to.

The drawings submitted with the application indicate that there will not be any windows in the south west elevation. With regard to the windows in the other elevations of the building, whilst they do not reflect the detailing of the windows in neighbouring historical properties, their proportions are sympathetic to the CA and overall, would not harm its character or appearance.

12. I have had regard to the Alumno scheme to the east, which would appear to be much greater in mass than the proposed. However, it is a standalone building that is some distance from Clemens Street/Brunswick Street and does not have the same relationship with the historical buildings within the CA as the appeal site does. The appellant has also referred to other canal side developments of a similar height to the proposed building. However, I have no details of which developments the appellant specifically refers to and therefore cannot draw any direct comparison with the appeal before me.
13. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is reflected in paragraph 132 of the Framework, which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is reflected in Saved Policy DAP8 of the Warwick District Local Plan (the LP) which seeks to ensure that development preserves or enhances the special architectural and historic interest and appearance of Conservation Areas.
14. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use. Whilst the harm to the significance of the CA would be less than substantial, I do not find that the contribution the proposal would have to the local housing supply or the utilisation of the previously developed site would outweigh this harm.
15. I find therefore that the proposal would fail to preserve or enhance the character or appearance of the Royal Leamington Spa Conservation Area, contrary to Saved Policy DAP 8 of the LP.

Highway Safety

16. The proposal would provide six covered car parking spaces located on the ground floor. The Council consider that the proposal is more akin to a HMO than student accommodation and therefore, in accordance with the Warwick District Council Vehicle Parking Standards Supplementary Planning Document (SPD), a total of 13 spaces should be provided. Whilst I note the differences between the proposed scheme and the Alumno scheme to the east, I do not agree with the Council's assessment of the proposal being a HMO rather than student accommodation. There is no indication that there is a definition of student accommodation in the LP or SPD. The application is clearly described as student accommodation and whilst it does not have on-site management I do not consider that this is determinative in considering it as a HMO. The en-suite rooms and layout of the building appears to be appropriate for student accommodation and I find no reason why tenancy conditions cannot be enforced in the absence of on-site management.

17. Therefore, in terms of parking provision, the appropriate land use to consider the proposal against in terms of the SPD is sui generis, for which the SPD states that each case should be considered on its own merits.
18. The site is located within a sustainable location, close to shops, facilities and services. Furthermore, there is good access to public transport services providing access to the Warwick University campus and a total of 26 cycle spaces would be provided. In my experience students are more likely to use public transport than have their own private car. Therefore the required parking provision is likely to be less than a typical HMO.
19. The proposed six parking spaces would be in a confined area where the space required for manoeuvring in and out of them may not be optimal. However, I do not consider that it would be unreasonably difficult. I note that the local highway authority raises no objection to the proposal. Furthermore, given the small number of spaces, I do not consider that manoeuvring in and out of them would pose a significant risk to other users of the car park.
20. At the time of my site visit on street parking appeared to be a significant problem. However, much of this was due to contractor vehicles in association with the Alumno site. Nevertheless, nearby car parks were extensively used and there were very few vacant on-street spaces. However, this was only a snap-shot in time and does not represent a comprehensive analysis of day-to-day parking in the locality. The appellant refers to a parking survey relating to a HMO scheme on Moss Street. However, Moss Street is some distance from the appeal site for the results of the survey to be applicable to the appeal before me.
21. I note that the Council allowed an application for student accommodation on Althorpe Street which had a ratio of 1 space per 10 rooms. However, it is not clear whether any alternative transport provision was provided in terms of pool cars/bicycles. Therefore, it is difficult to draw any direct comparison with the appeal before me. In any event, given the site's sustainable location, I consider the provision of six car parking spaces to be sufficient.
22. Moreover, the appeal site has an existing use and no parking provision and therefore represents a realistic fallback position. The existing use could accommodate a large number of visitors, far greater than the 26 students that the proposal would accommodate. This would likely require significant parking provision that could only be accommodated in nearby car parks and on nearby streets. Even if the proposal did result in any overspill parking, it would not be to such an extent as the existing use could potentially result in. Therefore, it is reasonable to conclude that the proposal would likely result in an improvement to highway safety.
23. As the proposal would likely result in less on-street parking than the current use of the site, it would not result in any increased inconvenience to nearby residents that park on-street and consequently would not have a significantly harmful effect on their living conditions.
24. I find therefore that the proposal would not result in severe harm to highway safety and therefore complies with Saved Policies DP2 and DP8 of the LP, which, amongst other matters, seek to ensure that development does not have an unacceptable effect on residential amenity and does not result in on-street

parking detrimental to highway safety. Furthermore, it would accord with the guidance contained within the SPD.

Other Matters

25. The Council indicates that there is a requirement for a contribution of £16,328 towards the provision or enhancement of identified public open space in the vicinity of the site. The Canal and River Trust also state that they require a contribution of £5,000-£10,000 for the provision of a handrail and wheeling ramp to facilitate cyclists. However, as the appeal is to be dismissed on other substantive issues, it is not necessary to look at these issues in detail, given that the proposal is unacceptable for other reasons. A conclusion either way on this matter would not affect the overall decision.

Planning Balance

26. The appellant confirms that the Council cannot demonstrate a five year supply of deliverable housing sites. This is not disputed. Accordingly, paragraph 14, bullet 4 of the National Planning Policy Framework (the Framework) is engaged. However, paragraph 14 footnote 9 of the Framework states that development restrictions relating to designated heritage assets, in this case the CA, still remain in effect. The presumption in favour of sustainable development does not therefore apply in this case.
27. The proposal would make a positive contribution towards the shortfall in housing provision which I attribute significant weight in favour of the proposal. The proposal would also likely result in a reduced need for on-site parking provision when considered against the current use of the site, to which I attribute moderate weight in favour of the proposal.
28. However, I find that these benefits do not outweigh the significant harm the proposal would have on the CA, the conservation of which is afforded great weight.

Conclusion

29. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR