

## Appeal Decision

Site visit made on 9 June 2017

**by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC**

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

**Decision date: 26 June 2017**

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**Appeal Ref: APP/H0928/W/16/3164810**

**19 King Street, Penrith CA11 7AJ**

- 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 The Bexton Partnership against the decision of Eden District Council.
  - The application Ref: 16/0450, dated 19 May 2016, was refused by notice dated 15 September 2016.
  - The development proposed is described as to the rear of the Platinum restaurant: Convert existing one bed flat (Flat 1) into 2 bed flat. Create 2 new flats on second floor.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:

(a) The effect on heritage assets and particularly whether or not the proposed development would:

(i) preserve 19 King Street a grade II listed building; and,

(ii) preserve or enhance the character or appearance of the Penrith Conservation Area;

and,

(b) The effect on the living conditions of nearby dwellings, having particular regard to privacy and noise and disturbance.

In arriving at the planning balance I shall consider whether the benefits of the scheme outweigh any harms identified.

### Reasons

#### ***Listed Building and Conservation Area***

3. No 19 King Street is a grade II listed building. Its main façade and range faces King Street whilst the rear wing is orientated so that its main elevation is perpendicular to the frontage building. This rear wing forms part of a modest area of tight-knit development running back from King Street.
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4. The part of the listed building to which the appeal mainly relates is of red Cumbrian sandstone, coursed, with some jumpers, and dates from the early-mid C19<sup>th</sup>. The original windows and doors have ashlar sandstone cills, headers and quoins. At first floor it appears that the three central windows, with their brick reveals, are later insertions. It also appears that there have been other changes to fenestration, including alteration of windows to form doors at ground floor, and I note that the Council's Conservation Advisor's report provides further detail about alterations to the building.
5. The King Street frontage part of the building is of three storeys with an attic floor. It has a painted finish and its rear facing windows do not have a regular pattern. This contrasts with the rear sandstone wing where the fenestration described in the paragraph above, which faces the pedestrian access route, provides the only external openings for this part of the building.
6. The rear sandstone wing also adjoins another building which is taller than it by a storey. Again it is different in character to the sandstone rear wing of the appeal building, having a later rendered finish and windows which are irregularly positioned. Beyond this there is a row of red sandstone, single fronted, dwellings forming Crown Terrace.
7. The special architectural and historic interest of the appeal building, its significance, is derived from its vernacular architectural form, different phases of development, its materials, and its age.
8. The appeal proposal is to extend the building upwards, forming a further full floor to be used as additional flats, as well as reconfiguring an existing first floor flat to provide two bedrooms rather than one. An external metal staircase and balcony decks, running the whole width of the main elevations of this part of the building, would provide means of access and sitting out space. New door openings would be created in this elevation. In addition, windows would be introduced to the existing blank elevation at first floor and in the new second floor.
9. Whilst the scheme follows a similar regular rhythm to that imposed on the original building, the additional door opening at first floor, and repeated in the proposed second floor, would appear rather cramped and would impose a very cluttered appearance that would be at odds with the original building. The window opening to be altered to form a door would exacerbate this harm.
10. The additional floor would materially alter the form and character of this part of the building, changing its proportions, overwhelming this rear wing, and making it difficult to understand its historic form and usage. Moreover, it would materially reduce the subservience of the rear wing to the main front element of the building and so detract from the building as a whole. It would also project above the height of the other adjoining building between the site and Crown Terrace.
11. The proposed access and balconies would wholly mar the external appearance of this particular elevation. The external access stairs would cut across openings and the balcony structures would dominate the appearance of this wing of the listed building, obscuring its simple form and thereby detracting from its architectural qualities.

12. The scheme would result in the loss of the historic fabric but it is difficult to fully assess this impact given the lack of evidence provided and the lack of access at the site visit. Nonetheless, on the evidence before me, in exercising my duty under s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act), I have no doubt that the proposal represents significant harm to the listed building and would not preserve it. This is a matter of considerable importance and weight.
13. In terms of the National Planning Policy Framework (the Framework), from the evidence before me, it seems that less than substantial harm would arise to the heritage asset which is the listed building. As such, it is necessary for me to weigh that harm against any public benefits of the scheme. I shall do so once I have considered any such benefits.
14. The proposed development would conflict with Policy CS17 of the Eden District Core Strategy which, amongst other things, sets out that the principles for historic buildings are to conserve and enhance them and to promote high quality design and use of materials.
15. Turning more specifically to the Penrith Conservation Area, this side 'street' is typical of the character of smaller areas of development behind the more imposing frontage buildings. These areas are important because of the vernacular character of the buildings which are in a variety of uses, their use of traditional materials, modest tight-knit form, irregular 'street' layout and subservient form.
16. The significant harms which I have described in respect of the exterior of the listed building, and in particular the access arrangement with its balconies and the additional floor of accommodation, would have a harmful impact on the character of the building seen from this pedestrian route. Moreover, this harm would impact on the wider character of this small and simply detailed residential enclave and the Conservation Area as a whole. Thus, having regard to my duties under s.72 of The Act the scheme would neither preserve nor enhance the Conservation Area but would harm it.
17. Whilst I saw other fire escape arrangements in the Conservation Area none were as visually harmful as the scheme before me, particularly given its context and the relationship to the facade. In any event, existing harm to the character of a Conservation Area does not justify creating further visual harm.
18. This harm would conflict with Policy CS17 of the Eden District Core Strategy for the same reasons as those above in respect of the listed building.
19. Again, the harm would not amount to substantial harm to the Conservation Area, as a heritage asset, for the purposes of the Framework and therefore I have to consider whether any public benefits of the scheme would outweigh the harm identified.

### ***Living Conditions***

20. The proposed development would result in new windows and balcony arrangements, which are shown as designed to provide space for tables and chairs, close and perpendicular to the rear facing accommodation in the frontage part of 19 King Street. As such, it seems to me that there would be harm to the occupiers of that accommodation and the proposed properties because of the inter-visibility between windows and from the balcony/stair

arrangement. The introduction of rear-facing windows in the second and third storeys would similarly result in issues of overlooking between existing and proposed windows.

21. Whilst the appellant suggests that obscured glazing and screening could be introduced, I consider that such details would exacerbate the visual harm already identified in respect of the Conservation Area as well as adding to the harm to the listed building.
22. In addition, comings and goings, and the potential to sit out on the balconies would be likely to result in noise and disturbance to the detriment of the occupiers of nearby dwellings. This could extend into periods later in the evening, a matter which could not be controlled by conditions, when occupiers of nearby properties would expect a greater degree of peace and quiet.
23. The harm to living conditions would conflict with Policy CS18 of the Eden Core Strategy which, amongst other things, requires development to demonstrate that it protects the amenity of existing residents and provides acceptable amenity for future occupiers. It would also be contrary to the Framework insofar as it seeks, as a core principle, that development achieves a good standard of amenity for all existing and future occupants of land and buildings.

### ***Benefits of the Scheme***

24. Turning to the benefits of the scheme, the appellant points to the need for residential accommodation especially that of small flats. Whilst that may be the case, no evidence is provided to substantiate that view. However, I accept that the Framework seeks to boost housing supply and that this is a sustainable location within Penrith where I saw that there is good access to services, facilities and potential employment, as well as transport links.
25. The Council also accepts that it cannot demonstrate a five year housing land supply. As such, the Framework indicates that development should be granted planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or specific policies of the Framework, such as those relating to heritage assets, indicate development should be restricted. Even using the test which favours the appellant, that is the tilted balance, there is no doubt that the harm to the heritage assets in this case is such that it outweighs the benefits of providing two new flats and reconfiguring another flat. This alone is determinative. However, the additional harm to living conditions tips the balance even further against the scheme.

### **Conclusions**

26. For the reasons set out above and having paid regard to all other matters raised I conclude that the appeal fails.

*Zoë H R Hill*

Inspector