



Appeal Decision

Site visit made on 27 June 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 15th August 2017

Appeal Ref: APP/M4510/W/17/3172886

38 Clayton Street West, Newcastle upon Tyne NE1 5DZ

- 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 Trafalgar Leisure Ltd against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2016/0777/01/DET, dated 20 April 2016, was refused by notice dated 25 November 2016.
 - The development proposed is change of use of basement to fourth floor from retail (Class A1) to offices (Class B1) and restaurant and café (Class A3) at ground floor and pitched roof extension at third and fourth floor levels to rear and external alterations including external plant at roof level and canopy to ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was amended following submission of the application but before the Council's decision was issued. The amendments, shown on additional and revised plans, include details of plant and machinery to be located on the roof, as well as changes to window patterns and the ground floor canopy. I am satisfied the amendments do not change the overall substance of the proposal and that all parties have had the opportunity to comment on them. As such, no party would be prejudiced by my consideration of the revised plans and I have therefore determined the appeal on that basis.
3. The description in the heading above reflects that used on the Council's decision notice and that given on the appeal form. The parties agree the description is a more accurate representation of the proposal and I have, therefore, determined the appeal on that basis.

Main Issue

4. The Council's concerns principally relate to the proposed extension. It has raised no concerns with the proposed change of use, external plant, alterations or canopy. I see no reason to come to an alternative view.
5. Thus, the main issue is the effect of the proposed extension on designated heritage assets, with particular regard to whether the proposal would preserve or enhance the character or appearance of the Central Conservation Area and the effect of the proposal on the setting of listed buildings at 40 Clayton Street West, 26-36 Clayton Street West and the Cathedral of St Mary.

Reasons

6. The appeal site lies within the Central Conservation Area (CCA), adjacent to Grade II listed buildings 40 Clayton Street West and 26-36 Clayton Street West and opposite the Grade I listed Cathedral of St Mary with its adjoining Grade II listed Presbytery.
7. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a statutory duty upon decision makers to safeguard the significance of heritage assets for future generations. Section 66(1) is clear that special regard to the desirability of preserving a listed building or its setting, or any features of special architectural or historic interest which it possesses, is to be had, whilst Section 72(1) states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
8. The CCA covers most of Newcastle city centre and is defined by an attractive built environment that exhibits many characteristics from the city's rich and varied history. With a street pattern that displays remnants of its medieval origins, the CCA is largely characterised by the grand, neoclassical streets developed by Richard Grainger in the 19th century. It is these sweeping, Georgian thoroughfares that make a substantial contribution to the significance of the CCA and, indeed, the wider perception of Newcastle as a whole.
9. The appeal site, and its immediate surroundings on this part of Clayton Street West, lie on the western edge of the CCA and essentially act as a recognisable gateway into this neoclassical core of the city. Moreover, it is an environment which provides a distinct contrast to the historical, industrial elements of the CCA located to the south.
10. The Council has made reference to 'Patterns of Experience, A Character Assessment of the Newcastle upon Tyne Central Conservation Area' (1996) (the Character Assessment). The Character Assessment identifies the view to Clayton Street West from the junction of Westmorland Road, Neville Street and Clayton Street West as a 'rich focus of roofscape, materials and facades edging in to turn various corners.' It goes on to reference the diversity of architectural styles and eaves line features which heighten the verticality of the built form and which compact into a stunning scene. From what I have seen from my site visit, I agree the view from the south presents an attractive vista and a pleasing introduction into the historical townscape of the CCA.
11. It is this vista that also provides the majority of the setting of the adjacent Grade II listed 40 Clayton Street West, 26-36 Clayton Street West and the Grade I Cathedral of St Mary, with its Grade II listed Presbytery, opposite.
12. No 40 is an attractive three storey building on the return of Clayton Street and Forth Place. Dating from around 1837, the listing suggests it was designed by John Wardle for Richard Grainger. At four storeys in height, the building has a substantial, attractive cornice between the second and third floor levels, with a reduced cornice above the third floor. The cornice is a key feature of the building and, through its return on the Forth Place frontage of the building, makes an important contribution to the significance of the heritage asset as well as the wider CCA. Similarly, 26-36 Clayton Street West is an attractive collection of four storey buildings built by Richard Grainger around the same

- time as No 40. The flat roof appearance behind a parapet with prominent cornices reflects the aesthetic value found at No 40 and the wider CCA.
13. Designed by Augustus Welby Northmore Pugin, the Cathedral of St Mary was built around 1844 with its tower completed around 1872. Constructed of coursed square sandstone with ashlar dressings, with a slate roof with overlapping stone gables and a stone spire, it is a fine example of Gothic revival architecture and building of considerable historical and ecclesiastical significance. The adjacent Presbytery is also of some significance. Completed around 1860, with additions later in the decade, it is located on the south side of the church and presents a pleasing brick, Tudor-style building.
 14. Though not a listed building, the appeal property as a four storey building of 19th century origins is a prominent feature within the key views along Clayton Street West from the south. Whilst it is currently partially obscured behind scaffolding, with a vertical emphasis in its fenestration and proportions, a flat roof and clear vernacular aesthetic, the appeal property makes a positive contribution to both this part of Clayton Street West and the significance of the wider CCA. Moreover, as the adjoining building within a terrace, the appeal property makes a considerable, positive contribution to the significance of the Grade II listed buildings either side, whilst its siting directly opposite a key façade of the Cathedral of St Mary, and its role in the importance of this part of Clayton Street West makes a positive contribution to the setting of the Grade I Listed Building.
 15. The Council has raised no concerns with the principle of an extension in this location. Indeed, whilst no longer extant, planning permission was granted in 2013¹ for conversion of the building to a hotel which included the erection of an extension at roof level. That extension would have been around 6.7m in height with a flat roof design. It would also have been set back around 0.5m from the building line of Forth Place.
 16. Whilst the proposed extension would be set back around 0.65m from Forth Place, it would nevertheless extend to around 8.7m in height with a ridge height similar to that of the host building. This would be a considerable increase above the previously approved extension as a proportion of its overall height. Moreover, it would utilise a large pitched roof, in contrast to the prevailing character of the surrounding roofscape. This would embellish the height and scale of the extension. As a result, the extension would not appear subservient to, nor would it preserve the established hierarchy of, the host building. Rather, it would appear as a dominant and somewhat obtrusive addition to the building and an incongruous feature in the key view along Clayton Street West from the south.
 17. Furthermore, the extension would create a discordant feature in the setting of 26-36 Clayton Street West and that of the Cathedral of St Mary. Whilst I note the lack objection from the Newcastle Conservation Advisory Group, in my view, the limited set back, coupled with the height and form of the extension would harmfully impinge upon the distinctive appearance of the cornice at No 40.
 18. I conclude, therefore, that the proposed extension would not preserve or enhance the character or appearance of the CCA nor would it preserve the

¹ LPA Ref: 2012/1382/01/DET

setting of the listed buildings at 40 Clayton Street West, 26-36 Clayton Street West and the Cathedral of St Mary.

19. It would, as a consequence, conflict with Policies CS15, UC12 and UC14 of the Core Strategy and Urban Core Plan 2015² which state that development should respond positively to local distinctiveness and character, that there will be a presumption against development that would cause significant harm to views of designated heritage assets and that it should maximise opportunities to sustain and enhance the significance of heritage assets and their settings.
20. It would also conflict with Saved Policies EN1.1 and C2 of the Newcastle upon Tyne Unitary Development Plan 1998 which state that all developments will be required to meet high standards of design and that development that would harm the architectural or historic interest or setting of a listed building will not be allowed.
21. Finally, there would be conflict with the Framework which states, at paragraph 132, that great weight should be given to the conservation of designated heritage assets.
22. In finding harm in respect of the significance of heritage assets, paragraph 134 of the Framework sets out that, where a view is taken that the harm to a designated heritage asset would be less than substantial, this harm should be weighed against the public benefits of the proposal. In this instance, I find that harm would be less than substantial and in accordance with paragraph 134 of the Framework, it should be weighed against any public benefits of the proposal.
23. The building is within a highly accessible location for public transport as well as being close to a wide range of services, facilities, employment, leisure and shopping opportunities. The property has also been vacant for a considerable length of time. The proposal would therefore potentially bring the building back into use. The appellant indicates that an increased set back from the Forth Place frontage would result in the loss of proposed floorspace. Evidence provided by the agents marketing the building indicates that there has been two expression of interest in letting the building by end users requiring floorspace in excess of 30,000 sq ft. It is also noted that the internal height proposed is necessary to achieve flexibility which is attractive to the market.
24. The appellant has raised concerns that a reduction in floorspace or height would impact upon the viability of the scheme and the ability of the developer to let the building. I am conscious that this would potentially result in the loss of jobs that would otherwise bring significant economic and social benefits to the area.
25. I also recognise there would be a need to accommodate adequate mechanical and electrical plant and machinery to allow the building to function as office space and there is little alternative than to locate this equipment on the roof as is proposed. The pitched roof would assist in screening that plant and machinery within the public realm.
26. Nevertheless, at this stage, the appellant indicates that there has been only two expressions of interest in letting the building. There is no substantive evidence before me that the future occupation of the building is solely

² Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030

dependent on the grant of planning permission for the scheme before me. Moreover, I have been provided with little substantive evidence that demonstrates the necessary floor space or ceiling heights could not be accommodated in an alternative manner. I cannot, therefore, agree with the appellant that it has been satisfactorily demonstrated that the proposal would secure the optimum viable use of the building.

27. To that end, whilst I accept there are public benefits of considerable weight, the cumulative harm identified to the significance of heritage assets in this instance weighs more heavily than the public benefits. As a consequence, the balance required by paragraph 134 of the Framework falls against the proposal.

Conclusions

28. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR