



Appeal Decision

Inquiry Held between 11 and 14 July 2017

Site visit made on 14 July 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 06 September 2017

Appeal Ref: APP/J2210/W/16/3161764

Becket House, 4-6 New Dover Road, Canterbury, Kent CT1 3BB

- 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 Telereal Trillium/British Telecommunications Plc against the decision of Canterbury City Council.
 - The application Ref CA/15/02342/FUL, dated 29 October 2015, was refused by notice dated 27 April 2016.
 - The development proposed is demolition of the existing buildings and construction of 118 dwellings including a 5 storey apartment block with revised highway access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Amended plans were submitted to the Council before it made its decision which reduced the number of proposed dwellings from 120 to 118. I shall base my decision on those amended plans and I have adjusted the number of proposed dwellings in the heading to this decision accordingly.
3. The Canterbury District Local Plan 2017 (the Local Plan) was adopted by the Council on 13 July 2017, before the Inquiry closed. The relevant policies of the 2006 Canterbury District Local Plan quoted in reasons 1 to 3 of the Council's decision have been superseded by the new Local Plan. I shall therefore consider the proposal against the relevant policies of the new Local Plan.
4. A signed planning obligation was submitted at the Inquiry which addresses the Council's fourth and fifth reasons for refusal concerning contributions towards community infrastructure and provision of affordable housing. I shall not therefore consider those reasons as main issues.
5. The Council's second and third reasons for refusal concern the effect of the proposed development on the settings of two adjoining Conservation Areas. Although not expressly forming part of those reasons, the Council's case as set out in its proof of evidence includes reference to the effect of the proposal on the setting of listed buildings at 2-7 Oaten Hill. The latter adjoin the site and are within one of the Conservation Areas that are referred to in the Council's decision. In accordance with the duty under Section 66(1) of the Listed Buildings and Conservation Areas Act 1990 I shall give special regard to the desirability of preserving the setting of those listed buildings in my decision.

Main Issues

6. From all that I have read, heard and seen I consider that the main issues in the appeal are:
- i) the effect of the proposal on the supply of employment floor space in the city and its consequences for the local economy; and
 - ii) the effect of the proposal on the character and appearance of the area, including its effect on heritage assets.

Reasons

Employment floor space and the local economy

7. Becket House is a 5 storey office building which was built in 1939. It is linked at the rear to a 1970s building of two storeys which is used as a Telephone Repeater Station (TRS) and office space. There is a car park to the rear of that building which is currently used by employees but most of this is allocated for residential development, this allocation having been carried forward from the 2006 Local Plan.
8. Chapter 3 of the new Local Plan explains that Canterbury has the second largest economy in Kent but that a significant amount of employment has been lost since 2008 and there has been only moderate recovery since the recession. The Employment Land Review¹ examined the requirements of all types of employment in the District and concluded that while there would be a theoretical surplus of employment land over the Local Plan period this assumes that all existing floor space would be retained. In practice intervention will be necessary in order to avoid a deficit. The Local Plan makes provision for new allocations of land for employment development and requires the retention of existing office accommodation.
9. Policy EMP4 of the Local Plan provides for the retention of existing offices. Part (a) of that policy restricts the loss of existing or allocated employment sites and paragraph 3.48 lists the existing premises to be protected by the policy. Becket House is not so listed and therefore not protected under part (a) of the policy. Part (c) of the policy allows for the change of use of office accommodation in general provided that this meets one of the criteria set out under that part. These include circumstances where the change of use would enable an existing business to invest and expand by relocating to a more appropriate site and the accommodation needs of existing occupiers have been met through provision of appropriate floorspace elsewhere in the District. The appellants have indicated an intention to remain in Canterbury but have advised that no other accommodation is currently available, indicating that a period of 5 years may be required in order to find suitable accommodation and requesting a 5 year permission to enable this. The criteria under part (c) of policy EMP4 would thus not be met.
10. While policy EMP4 (c) concerns change of use and the proposal is for demolition of the existing office building the effect in terms of the loss of office accommodation would be the same and the use of the site would be changed to residential. The supporting text to the policy states that second-hand land and buildings are considered to be of equal importance to sites that are

¹ Canterbury District Employment Land Review 2011-2031

identified for business development in the Local Plan. The text also recognises that the policy will not apply to conversions to residential use that are permitted development under the General Permitted Development Order² (GPDO). While a scheme for residential conversion of the building has previously been submitted to the Council and determined not to require prior approval and this is a relevant consideration, it is clear that policy EMP4 applies to the proposed development. The proposal would not accord with that policy.

11. It is about 15 years since the buildings were last refurbished and the appellants estimate that necessary further refurbishment would cost £1.7 million. It is not part of the appellants' case that expenditure of this sum to enable their continued occupation would be unviable however. There is a significant period remaining on their tenancy with BT which terminates in 2031 and on this basis it would appear that refurbishment of the buildings would be a viable option. However the appellants only occupy part of the buildings and wish to move to alternative accommodation that better suits their needs.
12. The net floor spaces of Becket House and the TRS amount to around 6,600 m² and the parties agree that it is unlikely that a single occupier could be found for this amount of floor space. There is, however demand for small office suites in Canterbury both from existing businesses wishing to remain in the city and to expand and from new businesses starting up. In order to convert the buildings into this type of accommodation it is likely that existing services such as lifts, heating and air conditioning would require upgrading and it may be necessary to alter the building to create light wells and new fenestration given the deep floor plans in the TRS. The ground floor of the TRS is not fitted out but currently houses telecommunications equipment and expenditure would be needed in terms of removing the equipment and fitting out the accommodation. The limited car parking available in connection with the buildings excluding the area allocated for residential development would be likely to limit demand. The appellants estimate that the cost of conversion would be about £4 million. They state that the gross rental income once fully occupied would be around £650,000 to £750,000 per annum. While this level of return considered alone may indicate viability, it would be necessary to avoid flooding the market. The appellants say that the units would need to be released on a phased basis over a 5 to 6 year period. The initial outlay combined with the likely holding costs over such a period would make conversion to office suites unviable in the appellants' view.
13. However this assessment does not take into account residential development of the allocated land which if undertaken in conjunction with conversion would increase the prospect of viability. Development of the allocated land would still leave a car parking area in association with the buildings albeit much reduced. If there were any doubt about viability the Council has highlighted sources of enabling financial assistance that are available such as the East Kent Spatial Development Company and funding obtained by the Council from the South East Local Enterprise Partnership. The appellants expressed some doubt as to the likely effectiveness of such measures but nonetheless I am not convinced that they would be unrealistic. For the reasons given it has not been conclusively demonstrated that conversion of the existing buildings into office units would not be viable.

² Town and Country Planning (General Permitted Development) (England) Order 2015

14. Paragraph 51 of the National Planning Policy Framework (the Framework) encourages the change to residential use from commercial buildings provided that there are not strong economic reasons why such development would be inappropriate. The parties are in broad agreement that there is a limited supply of office accommodation in the city. The vacancy rate is usually at the lower end of the 7-10% range that indicates a healthy market. A surplus of accommodation is needed at any time in order to provide adequately for demand. The lack of office supply and a high level of demand have been highlighted by Locate in Kent which is the local investment promotion agency. High demand for such accommodation is consistent with the findings of the Employment Land Review which found that there has been exceptional growth in professional, scientific and technical industries locally in comparison to the UK generally. The buildings are in a suitable location adjacent to the city centre and are highly accessible. The Employment Land Review recognised this as well as the prominent frontage and good visibility of Becket House. These factors point to a clear need to retain the office accommodation on the site and amount to a strong economic reason to resist its replacement by residential development.
15. Paragraph 22 of the Framework advises against the long term protection of employment sites where there is no reasonable prospect of the site being used for that purpose. Becket House is in use and could remain in occupation over a long term period. It is not the case, therefore that there is no reasonable prospect of the site being used for offices or other employment purposes.
16. A scheme for conversion of Becket House to 53 residential apartments was submitted to the Council in 2014 under the permitted development provisions of the then GPDO, the Council deciding that prior approval was not required. The appellants have submitted an appraisal of the viability of this scheme by HEDC Limited which shows that the scheme would be viable provided it is undertaken in conjunction with residential development of the allocated land and letting the floor space within the TRS for storage or similar use. BNP Paribas has advised the Council on this matter. They have however not been able to review that appraisal in the absence of full information regarding the development appraisal and sales values. However they point out that removal of the telecommunications equipment from the building would add to costs and this may reduce the stated land value of the project. Although there appears to be some elements of uncertainty surrounding the viability of residential conversion I acknowledge that this would be a potential fall-back position.
17. I have found that the proposal would not accord with national or local planning policy and that there is a clearly identified need for office accommodation to be retained in the city. On this basis the proposal would be harmful in terms of reducing the supply of employment floor space in the city which in turn would have adverse implications for the local economy. It is likely that potential fall-back scenarios of residential conversion will exist in many cases but this does not mean that policy EMP4 should be dis-applied. For this reason the acknowledged fall-back position does not outweigh the clear harm and policy conflict that I have identified.

Character and Appearance

18. The appeal site adjoins two Conservation Areas. These are the Canterbury (New Dover Road and St Augustine's Road) Conservation Area (the New Dover

Road CA) which adjoins the frontage of Becket House and the Canterbury (Old Dover Road, Oaten Hill and St. Lawrence) Conservation Area (the Old Dover Road CA) which adjoins the rear part of the site. The New Dover Road CA covers a Victorian suburb of large detached villas along both sides of New Dover Road which was a route created at the end of the 18th century to allow more direct access into the city from Dover. The Old Dover Road CA covers the historic Roman route and includes development of different periods including Victorian terraced housing and houses from earlier periods, notably the grade II listed houses at 2-7 Oaten Hill which back onto the site.

19. The site also adjoins Ersham Road to its south-east which is a cul-de-sac containing 1930s detached houses in good sized gardens. To the north-west of the site there are modern residential developments including a block of flats at Copperfield Court and modern terraced dwellings at Flagstaff Court. The former relates to modern buildings around the junction of New Dover Road and Upper Chantry Lane while the latter provide a transition towards the historic character of Oaten Hill.
20. Becket House is a large and imposing building which was built as offices in the late 1930s. Its frontage is symmetrical and is composed of a projecting four storey section which is framed by the recessed upper storey and bays to either side. It has a large arched and detailed central entrance feature. The frontage of the building adjoins the New Dover Road CA and the building clearly forms an important part of the setting of the CA. The CA Appraisal describes Becket house as being of local interest.
21. Historic England has commented that the monumental scale of the building with its sheer brickwork walls and fusion of classical and modernist styles is reminiscent of Giles Gilbert Scott's work of the 1930s and is a style of architecture not well represented in Canterbury. The building is not formally identified by any local listing as a non-designated heritage asset but the Council considers it to be such an asset.
22. I saw the building on my visit to the site. I find that although it is of a large scale in relation to the houses in the New Dover Road CA it relates to those houses in terms of it forming part of the historic development of Canterbury and signifying the end of the residential suburb and the start of the city centre. The frontage design is harmonious in terms of its symmetry, proportions and detailing.
23. It may be the case that Becket House bears only limited resemblance to Giles Gilbert Scott's work and that the building has limited interest in terms of its historical use or association. However it forms part of the heritage of 1930s buildings in Canterbury. It relates well to its setting and is very prominent and for these reasons and those given above it makes a positive contribution to its setting. The Council's reasons for refusal do not concern the loss of the building as a non-designated heritage asset and on this basis it is not necessary for me to reach a conclusion as to whether the building is such an asset.
24. It is possible that permitted development rights will be extended at a future date to include the demolition of offices and their replacement with housing. The Government announced its intention in this respect in October 2015 but since then there has been no further announcement of a time scale for introduction of such a provision. Such provision would weigh in favour of the

- proposed development but because there is no prospect for its introduction in terms of a firm time scale I cannot give this consideration material weight.
25. The proposed new apartment block would be slightly lower than the existing building excluding plant and structures on its roof but would be wider. It would be of comparable bulk and scale to Becket House. The proposed new block has been designed to provide a greater degree of relief to the front elevation and thereby to break up its mass. The areas of brickwork would be divided by vertical glazed and recessed sections and the upper floor would be treated in a similar way. The ground floor would be faced with rusticated brickwork and the side wings would be lower than the main part of the building and recessed. This design would mirror some of the elements of Becket House and would be successful to some extent in providing visual interest. However the largely blank side walls of the proposed block would have a more oppressive appearance than the windowed side walls of Becket House.
26. The proposed apartment block would clearly be of a large scale in relation to the domestic scale of buildings in the adjoining New Dover Road CA. As such it would be dominant notwithstanding that its visibility would be limited to some extent when travelling along the road by the trees in the adjacent gardens. I have found that Becket House has value in terms of its architecture and its contribution to the setting. While I do not doubt that the architecture of the front elevation of the proposed block would be of reasonably good quality it would be less remarkable than that of the existing building and would not positively contribute to the setting in the same way. As such the negative effects of its scale and incongruity would predominate and on this basis I find that the development would harm the setting of the New Dover Road CA.
27. This harm to the setting of the CA would be experienced at close hand from the nearest part of the CA but the effect of the proposal would be lessened to the extent that it would be seen in association with other large modern buildings along the adjoining road frontages. I give great weight to the conservation of the New Dover Road CA in accordance with paragraph 132 of the Framework. Because of the close association of the building with the CA and its setting I give considerable weight to the harm that I have identified.
28. The rear part of the site forms a car park, part of which is allocated for residential development. Notwithstanding that it is developed land and within the urban area it is open and allows views from Oaten Hill at the entrance into the site across to Ersham Road and takes in trees that are within the site and at Ersham Road, which is at a higher level. This sense of openness is part of the setting of the listed buildings on the adjoining part of Oaten Hill and is consistent with the historically open nature of the site including when it formed part of the garden of the demolished Ersham House although I note that there was previously a building on the part of the site to the rear of the listed buildings.
29. Any residential development of the allocated land is bound to reduce that open character by introducing built form. However I find that the proposed development would have a particularly severe effect on the aspect towards Ersham Road from Oaten Hill because of its very closely built layout, with the road winding around terraced blocks and the inclusion of 2.5 and 3 storey houses which would closely enclose the site and block any views across it from Oaten Hill.

30. I take into account the high boundary wall along the rear gardens of the listed buildings and I saw on my visit that a two storey extension has been constructed to the rear of 2 Oaten Hill. The wall provides separation to the curtilages of the listed buildings but this does not alter the value of the open aspect to the setting. The statutory duty to give special regard to the desirability of preserving the setting of the listed buildings carries considerable importance and weight. I find that the setting of the listed buildings would be unduly adversely affected and I give considerable weight to this harm.
31. The closely-built pattern of the proposed development would be reflective in some ways of other development in the Old Dover Road CA, notably the terraced housing on Cossington Road. However I have identified harm in terms of the loss of the open aspect from Oaten Hill. For similar reasons to those given above regarding harm to the setting of the listed buildings I find that the development would be harmful to the setting of the Old Dover Road CA. I give considerable weight to that harm.
32. In terms of its general effect on the character and appearance of the area, the proposed development would be of a high density in comparison to the adjoining houses on Ersham Road and New Dover Road but would be comparable to, or possibly of lower density than Flagstaff Court. The buildings would be close to each other and to neighbouring buildings. In particular the rear of the apartment block would be very close to the adjacent dwellings on plots 30 and 31. While the Council said that this distance would be only 5m the appellants have pointed out that the distances would actually be 8.4m and 9.1m. Given the difference in height between the apartment block and the dwellings on those plots however I find that the buildings would be uncomfortably close and that the apartment block would have an overpowering presence in relation to the adjacent houses within the development. The area of open space proposed in front of plots 31 and 32 would not alter this effect.
33. I am also concerned that the dwellings on plots 37-46 would be very close to the facing dwellings at Flagstaff Court and those on plots 13-17 would appear very intensive in relation to the much more spacious character of Ersham Road. For these reasons and those set out above I find that the proposed layout would be unacceptably cramped.
34. I have found that there would be harms to the settings of two adjacent CAs and to the setting of listed buildings. I consider that the harms would in all cases be less than substantial for the reasons given. In accordance with paragraph 134 of the Framework I must balance those less than substantial harms against the public benefits of the proposal.
35. The proposal would be of benefit in delivering a significant number of new dwellings including affordable homes which would be in a highly accessible location. Although the Council can demonstrate a five year supply of deliverable housing sites a recent appeal decision³ (the Blean decision) has cast some doubt on this position. The Inspector in that appeal found that the evidence on housing land supply was not fully conclusive and that any surplus was at best fairly marginal. The schedule of housing allocations and permissions at Appendix 2 to the Local Plan includes the prior approval scheme of 53 dwellings within Becket House as part of the housing supply. At the Inquiry the Council said that this should not have been included. Omission of

³ APP/J2210/W/16/3156397

the permitted units from the supply would not alter the position regarding the existence of a 5 year supply on the basis of the Council's figures however. An additional 85 dwellings have been allowed in the Blean decision and a further 250 units have been approved at Hoplands Farm in Hersden which would more than compensate for discounting the 53 dwellings. While there is no evidence before me to disprove the existence of a 5 year supply I acknowledge that there is some uncertainty in this respect. In this context the proposal would be of clear benefit in boosting the supply of housing. The proposal would provide significantly more units than the approximately 20 that could be accommodated on the allocated land⁴ combined with the 53 units in Becket House should it be converted under the permitted development scheme. I give significant weight to the benefit of the proposal in this respect.

36. Furthermore the proposal would provide 12 units of affordable housing. This level of provision at about 10% would be significantly lower than the 30% normally required under policy HD2 of the Local Plan due to the viability of the development. Because of the reduced level of affordable housing provision I give limited additional weight to this benefit.
37. The TRS building was constructed in the 1970s and is linked by a corridor at first floor level to the rear of Becket House. The TRS is bulky and generally unsympathetic in terms of its design in relation to the surrounding area. It is seen from Upper Chantry Lane through the entrance to Flagstaff Court and is also visible from Cossington Road at greater distance. It does not affect the setting of the listed buildings because it is largely concealed behind the Flagstaff Court buildings. Removal of this unsympathetic building would represent a benefit to the character and appearance of the area. However the building is to the rear of frontage development with limited visibility from the public realm. For these reasons I give limited weight to this benefit.
38. I have found that there would be uncertainty regarding the relocation within the district of the appellant as a key local employer because no alternative accommodation has been identified. I cannot on this basis give weight to this consideration.
39. While the site was included in a Regeneration Zone which was identified in the 2006 Local Plan that designation has not been carried forward into the new Local Plan and on this basis this does not weigh in favour of the proposal.
40. Contributions would be secured to community services and infrastructure by the Unilateral Undertaking but those contributions would be necessary to address the needs of the development rather than providing for any wider community benefit. This does not attract any weight for this reason.
41. I have taken into account the other suggested benefits in terms of increasing permeability of the site including opening up public views of the adjacent CAs, public realm improvements to the frontage of the proposed apartment block, landscaping and creation of employment during construction but those considerations do not alter my overall conclusions on the public benefits of the proposal. For the reasons given I attach a significant weight and two limited weights to those benefits. Taken together those weights would amount to very significant weight. However this would not be sufficient to outweigh the

⁴ As shown in the Schedule of Housing Allocations, Local Plan Appendix 2

considerable weight that I give to the harm to each of the designated heritage assets.

42. For the reasons given I conclude on this main issue that the proposal would unacceptably harm the character and appearance of the area. The development would not accord with policy HE6 of the Local Plan which requires development affecting the setting of a conservation area to preserve or enhance all features that contribute positively to the area's character, appearance or setting. Neither would the proposal accord with policy HE1 of the Local Plan which requires conservation and enhancement of the significance of heritage assets and their settings. I also find that the proposal would not accord with policy DBE3 of the Local Plan which requires protection and enhancement of character, including consideration of setting and context, townscape character, form and density.
43. The proposal would accord with the Local Plan in as far as it would include housing development on the allocated land which is brought forward under policy HD1. It would accord with policy SP4 in terms of its general support for housing development in the urban area of Canterbury. It would also accord with policy HD2 which allows for reduced affordable housing provision where this is justified by way of a financial appraisal. However policy SP4 does not override the other identified policies where there would be conflict. Because the proposal would not accord with key requirements in terms of protection of employment sites and of heritage assets and regarding the character and appearance of the area the proposal would not accord with the development plan read as a whole.

Overall

44. The presumption in favour of sustainable development contained in paragraph 14 of the Framework is not applicable to the proposal because I have found that it does not accord with the development plan and this is not absent, silent or out-of-date. On this basis the proposal would not be sustainable development.
45. I have weighed the benefits of the proposed development against the less than substantial harm that I have found to each of the designated heritage assets and found that the benefits are not sufficient to outweigh the harm in each case. In addition I have identified harms to the character and appearance of the area and the local economy which further weigh against the proposal. There are no other matters that weigh in favour of the proposal that would alter the planning balance.

Conclusion

46. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

George Mackenzie, of Counsel instructed by Cath Wallen, Principal Solicitor to the Council

He called

Nick Churchill BA (Hons) MSc MIED

Strategic Regeneration
Manager, Canterbury
City Council

Allan Cox BA (Hons) Grad Dip Cons (AA) RIBA IHBC

Built Heritage Consultant

Nathan Anthony BA (Hons) MRTPI

Associate Partner, Lee
Evans Partnership

FOR THE APPELLANTS:

Brian Ash, of Queens Counsel instructed by GL Hearn

He called

James Cook BA (Hons) Dip TP MRTPI

Director, GL Hearn

Ignus Froneman B Arch. Stud ACIfA IHBC

Director, Heritage
Collective

William Hinckley BSc (Hons) MRICS

Director, BTF Partnership

Patrick McConkey BA (Hons) Dip Arch RIBA

Partner, BDB Design

INTERESTED PERSONS:

Richard Vane-Wright

Oaten Hill and South
Canterbury Association

Sophie Scott

Local resident

Jeff Derham

Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

SUBMITTED BY THE LOCAL PLANNING AUTHORITY

- 1 Opening Submissions on behalf of the Council
- 2 Nathan Anthony details
- 3 E-mail from Thomas Glasson of BNP Paribas to Nathan Anthony dated 6 July 2017
- 4 Note on assessment of Becket House as a non-designated heritage asset

- 5 Tables: Active inward investment projects and office enquiries July 2015 – July 2017
- 6 Historic England letter dated 30 November 2015
- 7 Medcalf v Mardell and others (2002) UKHL 27
- 8 Letter from Simon Thomas, Head of Planning Canterbury City Council dated 14 July 2017
- 9 Inspector's report on the examination of the Canterbury District Local Plan
- 10 Canterbury District Local Plan 2017
- 11 Closing Submissions on behalf of the Council

SUBMITTED BY THE APPELLANT

- 12 List of appearances
- 13 Opening Submission on behalf of the appellant
- 14 Memorandum from Nick Churchill to Ceri Williams Canterbury City Council dated 4 December 2015
- 15 Appeal decision ref APP/J2210/W/16/3156397
- 16 Extract from SHLAA
- 17 Unilateral Undertaking
- 18 Closing Submission on behalf of the Appellant

SUBMITTED BY AN INTERESTED PERSON

- 19 Statement by Mr Vane-Wright