



Appeal Decision

Site visit made on 21 August 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/J2210/W/17/3174754
16-18 High Street, Canterbury CT1 2JE

- 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 N Rayne against the decision of Canterbury City Council.
 - The application Ref 16/02693, dated 21 November 2016, was refused by notice dated 7 February 2017.
 - The development proposed is described as 'partial demolition of existing flat roof extension and development of six residential units and additional retail storage area'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development in the banner heading above is taken from the application form. This differs from that used on the decision notice by the Council. I do not have the authority to change the description of the application and I am satisfied that it accurately describes the development.
3. The applicant has submitted additional plans with the appeal. These make minor internal alterations and do not significantly change the nature of the proposal or the scale, bulk or mass of the proposed building or its location. I am satisfied that the alterations are minor and accepting these would not result in prejudice to other parties. The amended plans were submitted at the time of the appeal and any interested parties and the Council have had the opportunity to comment on those amendments. I am satisfied that the amendments are consistent with the wheatcroft principles and I will take them into consideration in the determination of this appeal.
4. The Council has confirmed that since it determined the application it has adopted its emerging local plan, this is now referred to as the Canterbury District Local Plan 2017 (CDLP). The CDLP supersedes the Canterbury District Local Plan 2006 and its saved policies; these are therefore no longer Development Plan policies. The Council confirms that the aims and objectives of the policies in the adopted plan are in line with those set out in the publication draft 2014, as referred to in the decision notice, and would not result in a different determination.
5. Part of the appellant's original case included the contention that the Council could not demonstrate a 5 year housing land supply. With the recent adoption of the CDLP, July 2017, the Council at that point could demonstrate a 5 year

supply of housing land. The appellant points to a recent appeal decision, APP/J2210/W/16/3156397, in which the Inspector raised some concerns related to the evidence on the supply side of the calculation for a five year housing supply. He did not come to a definitive conclusion on the matter. The appellant however does not provide any further evidence in this regard and therefore on the basis of the information before me I conclude, for the purposes of this appeal, that the Council are able to demonstrate a five year housing land supply in line with the recently adopted CDLP. I accept the appellant's point that the housing figure in the plan is not a maximum figure where development is capped but a minimum figure to allow for the required need. I have also had regard to the advice at paragraph 47 of the National Planning Policy Framework (the Framework) regarding the Government's aim to significantly boost the supply of housing.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the surrounding area, including the Canterbury City Conservation Area, within which the appeal site lies, and the setting of adjacent listed buildings;
- Whether the proposed development would make provision for acceptable living conditions for future occupants, with particular reference to outlook, privacy and amenity space; and
- The effect of the development on buried archaeology.

Reasons

Character and appearance

7. The appeal site is identified as 16 -18 High Street Canterbury. It is set within a terrace of properties, a number of which are listed.
8. To one side is the Beane Institute building, a grade II listed public library and museum. Built at the end of the 19th Century it has significant and intricate detail particularly to the front elevation. Its significance is derived from its history and architectural detail particularly of the impressive front elevation. The building forms part of a group of properties stretching from the Beane Institute to the end of the terrace.
9. On the other side of the appeal site is 15 High Street, again a grade II listed building. It is a C18 3 storey and attic building. Its significance derives from its age and architectural quality, again particularly in respect of its front façade facing the High Street. It forms part of a group with the properties stretching to the other end of the terrace at number 11.
10. The site is located within the Canterbury City Conservation Area and within the World Heritage Site of Canterbury Cathedral, St Augustine's Abbey and St Martins Church.
11. The application seeks permission to develop an existing two storey modern extension to provide for retail space at the Ground floor and six flats above. The extension is located to the rear of the existing main building and fronts towards the Orange Street public car park.

12. The existing extension is, I am informed, a 1970's addition. It is flat roofed and has little to commend it in architectural terms. It sits relatively low and the upper elements and roof of the main building are visible above the flat roof form. There have been substantial alterations and extensions to the adjoining listed buildings such that much of their rear elevations are obscured. However with the low level and form of the existing extension on the appeal property the rear façade of the terrace is visible and the interventions and alterations to the adjoining listed buildings readily distinguishable and apparent. In effect this enables an understanding of the development of these buildings and the area.
13. The proposed works would increase the height scale and bulk of the existing built form. The increased roof profile and proximity to the adjoining properties would further obscure the rear of the terrace and the relationship between the adjoining buildings this building and the extensions to those buildings. The additional height would reduce the visibility of the rear façade of the appeal building, which although not listed is still a non-designated heritage asset due to its age form location and relationship with adjoining properties and position in this terrace.
14. I agree with the Council that the rears of the buildings in this location are more utilitarian in form and appearance and this was by design. However, that does not suggest that there is no merit in them. I also accept the appellant's position that there have been significant alterations and additions in the rear area that has significantly reduced and obscured the historic rear elevations. However this does not provide justification for a development that would otherwise further reduce and obscure the understanding and appearance of the listed buildings.
15. The rear area is used as a public car park and many of the surrounding buildings have been altered or extended. The area is more discreet and contributes less to the overall character and appearance of the conservation area however it still does make a contribution and there is public access to the car park allowing for views of the rear of the main terraces.
16. In conclusion therefore, for the reasons given above, whilst I accept that the rear area is less important and has been the subject of significant intervention the proposed development would result in additional bulk height and built form that would further obscure the rear façade of the terrace within which it is located. In my view this would result in harm to the setting of the adjoining listed buildings and would not preserve the appearance of the conservation area. Consequently the proposal would conflict with policies DBE3, HE1, HE4 and HE6 of the CDLP which collectively seek to ensure high quality design and to preserve conservation areas and the setting of listed buildings.
17. I give this harm to designated heritage assets considerable weight and importance in my overall balance. The harm is nevertheless less than substantial in the context of the Framework and I return to the balance required under paragraph 134 towards the end of this decision.

Living conditions for future occupants

18. The proposed development would provide for six one bed room flats over two upper floors above areas of ancillary retail space.

19. The flats considered by the Council predominantly provided for the kitchen living spaces towards the rear of the buildings with bedrooms towards the front. The proposed building would be separated from the rear main façade of 16-18 by approximately 8m. The rear façade would be significantly higher than the proposed building and would dominate any outlook from windows in the rear façade of the proposed building. Even with the re-configuration of the flats in the new plans, which seeks to put the bedroom windows to the rear elevations and living/ kitchen areas to the front, habitable room windows would face towards the rear façade of 16-18. The separation distance in my view, even for a city centre location is extremely close and would dominate the outlook from the flats. Moreover the rear façade of 16-18 contains a number of windows and openings which could facilitate views towards the rear of the proposed building. The limited separation would result materially harm the privacy of the future occupants of the proposed flats.
20. The Council have raised concerns regarding the lack of outdoor space for future residents. The appellant notes that the nationally described space standards do not cover external amenity space. They further point to the proximity to close by parks and gardens that could provide some outdoor amenity for future residents. City centre living does require some compromises and the lack of external amenity space is often offset by the proximity to shops and services and entertainment in the city centre. That is not an unreasonable compromise and given the proximity to other open spaces in the area that is one which I do not find unacceptable.
21. The appellant suggests that the properties meet the national described space standards being between 38 and 47 square metres. However, they selectively identify the 37 sqm standard which refers to standards for a 1 bed 1 person flat with a shower room instead of a bathroom. The latest proposed plans identify bathrooms which would therefore mean the appropriate standard would be 39 sqm also the bedrooms all provide an illustration of a double bed suggesting these would be 2 person bed space units which could raise the internal space standard to 50 sqm. In any view the flats are small do not provide for any internal storage space, as required in the standards, and in my view are rightly described by the council as cramped. The lack of outdoor space in these circumstances exacerbates the poor quality of accommodation provided for future residents.
22. For the reasons given above I conclude that the proposed development would not make provision for acceptable living conditions for future occupants, with particular reference to outlook, privacy, living space and amenity space. It would therefore conflict with policy DBE3 of the CDLP which seeks to ensure high quality inclusive design which takes account of the privacy and amenity of neighbouring buildings and future residents and the provision of appropriate amenity. This is consistent with the core planning principles in the Framework and particularly bullet point 4 of paragraph 17 which advises that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Archaeology

23. The appeal site is set within a sensitive historic environment. The proximity to significant numbers of historic buildings, an historic street pattern and a conservation area based on the historic development of the city. The site is

also located within an area identified as an Area of Archaeological Importance in the development plan. The opportunity and indeed likelihood for buried remains would appear high.

24. The exiting extension is a two storey building constructed in the 1970's the surrounding area has been surfaced and laid out as a car park, the adjoining buildings have been the subject of significant extensions. There is therefore an undeniable fact that the ground will already have been disturbed and there could already have been an impact on buried remains. The appellant however has not provided any desk top analysis or justification to support the contention that there would be no significant effect and that the matters could be addressed by condition.
25. Paragraph 128 of the Framework advises that where a site on which development is proposed includes or has potential to include heritage assets with archaeological interest, local authorities should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
26. Given the nature of the historic environment within which the site is located, the Area of Archaeological Importance within which the site lies, as identified in the development plan, and the surrounding listed buildings and City Centre location, it is not unreasonable for the Council to have concluded that there is potential archaeological interest and that the applicant should be required to submit a desk-based assessment.
27. The appellant's submissions and the conclusions that the previous development and works would have had the potential to affect buried remains is a general statement. There is no evidential basis from which an informed decision can be arrived. Indeed the appellant acknowledges that there is a possibility that potential remains survive and that an intrusive evaluation was not required. However there is no assessment of the nature of the potential ground or below ground works that would be required, the effect of potential foundation work and there is no desk based assessment of considering other archaeological records in the vicinity of the site to provide a better understanding of that potential. This is in conflict with paragraph 128 of the Framework.
28. For the reasons given above I conclude that the proposed development would have the potential to materially harm buried archaeology. Consequently the proposal would conflict with policy HE11 and HE12 which require developers to submit archaeological evaluations of areas where there is a potential to affect buried archaeology. This is consistent with the Framework, particularly paragraph 128.

Other matters

29. The appellant identifies the increase of six additional units of accommodation as a benefit of the scheme that should be weighed in the balance. I accept that given the Government's desire to significantly boost housing that any additional housing is a positive benefit. However, the weight I give to this is limited given the poor living conditions and cramped nature of the proposal and the fact the Council is able to demonstrate a 5 year supply of deliverable housing land. The weight I give this benefit is moderate.

30. The appellant has suggested that with the reconfiguration of the internal arrangement the development would provide for a rear access to the shop. It is suggested that this would increase footfall to the rear of the premises and thereby better reveal the significance of the heritage assets in line with paragraph 138 of the Framework. Given my conclusions above that the proposed development due to its height scale and bulk would harm the heritage assets introducing additional footfall would not improve their understanding of the significance of the asset. In any case the area is already a public car park and has public access I do not see this as a benefit of the development.

Overall conclusions

31. I have concluded that the proposal would result in material harm to designated heritage assets and that this harm would amount to less than substantial harm in the context of the Framework. Paragraph 134 of the Framework requires that I balance this harm against the public benefits of the scheme including the viable use. The building itself is not a designated heritage asset therefore its viable use is not at issue. In any case the site is already put to a viable use. I give the harm I have identified to the Conservation Area and setting of surrounding Listed Buildings considerable weight and importance. In my view this is not outweighed by the moderate public benefit derived from the limited number of additional dwellings given their cramped and poor living conditions and the Council's ability to demonstrate a five year housing land supply.
32. In the context of the site as a non-designated heritage asset paragraph 135 of the Framework requires that I take account of the effect of the application on it and arrive at a balanced judgement having regard to the scale of any harm or loss. The site sits within a wider terrace which includes a number of Listed Buildings and which are included for their group value. The harm that would arise would be as a result of the increased bulk and height of the building further obscuring the building and its contribution to the conservation and adjoining listed buildings. The harm is unacceptable and not mitigated by the benefits.
33. Overall the proposed development results in material harm to heritage assets which is not outweighed by public benefits, the development provides for poor living conditions for future residents and there is a potential for the development to materially harm buried archaeology. The proposal conflicts with the relevant policies in the development plan, as identified above, and I conclude that overall the proposal conflicts with the development plan as a whole. The harm I have identified would conflict with the environmental and social roles of sustainable development and therefore the proposal would not amount to sustainable development.
34. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR