

Appeal Decisions

Site visit made on 22 January 2018

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2018

Appeal A: APP/H0520/W/17/3181818

The Old Falcon Hotel, Market Square, St Neots PE19 2AW

- 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 Whitfield Associates against the decision of Huntingdonshire District Council.
 - The application Ref 16/01628/FUL, dated 26 July 2016, was refused by notice dated 23 December 2016.
 - The development proposed is part demolition of listed building, internal alterations and extensions to form retail and food accommodation on the ground floor and 14 residential units on the 1st and 2nd floors.
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Appeal B: APP/H0520/Y/17/3178306

The Old Falcon Hotel, Market Square, St Neots PE19 2AW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Whitfield Associates against the decision of Huntingdonshire District Council.
 - The application Ref 16/01629/LBC, dated 26 July 2016, was refused by notice dated 23 December 2016.
 - The works proposed are part demolition of listed building, internal alterations and extensions to form retail and food accommodation on the ground floor and 14 residential units on the 1st and 2nd floors.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matters

3. The description of the proposal on the decision notices includes references to the Use Classes Order to clarify the nature of the uses proposed. However, it makes no material change to the nature of the proposal and I have therefore used that on the original application form in my heading above.
4. I received a planning obligation, on the 2nd February 2019, dated 30th January 2018, in the form of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990. I turn to deal with the matters it seeks to address below.

5. The Council's decision on the planning permission originally included a reason for refusal related to the impact of the development on the Yew tree on the adjoining land. In its statement of case the Council confirms it no longer proposes to contest this reason as the matters have been addressed in the additional information submitted to support the appeal and it is of the view that any further details could be addressed by way of a planning condition. The appellant raises no objection to a condition to address this matter. On the basis of the information I have before me I see no reason to disagree with the conclusions of either party on these matters and I am satisfied that the issue of the effect of the development on the Yew tree could satisfactorily be addressed by the imposition of suitable conditions.
6. The Council have drawn attention to the progress of its emerging development plan. At the time the decisions were issued this was the Draft Huntingdonshire Local Plan to 2036: Stage 3 (2013). However this has been superseded by the publication of Huntingdonshire's Local Plan to 2036: Proposed Submission 2017 (HLP:PS 2017). It is not yet at the stage for submission and only recently been published for consultation, 18 December 2017. Paragraph 216 of the National Planning Policy Framework advises that weight may be given to relevant policies in emerging plans. There is the potential for further changes and objections and this limits the weight that can be afforded to it given the advice in paragraph 216. I therefore give these policies limited weight in my decision.
7. The development plan, for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 includes the saved policies of the Huntingdonshire Local Plan 1995 (HLP), the saved policies of the Huntingdonshire Local Plan Alterations 2002 (HLPa) and Policies of the Huntingdonshire Local Development Framework Adopted Core Strategy 2009. (CS).

Main Issues

8. The main issues are:
 - Whether the proposal would preserve the Grade II listed building known as Old Falcon Hotel (listed as Old Falcon Inn), or its setting or any features of special architectural or historic interest that it possess and the effect on the character and appearance of the St Neots Conservation Area and on the setting of the Grade II listed building known as No. 8 Market Square;
 - The effect of the proposals on the living conditions of the occupants of No.2 River Terrace (No.2) with particular reference to light and outlook; and
 - Whether the proposal makes adequate provision for any additional need for formal outdoor open sports space and outdoor green space for future residents arising from the development.

Reasons

Effect on Old Falcon Hotel, St Neots Conservation Area and Setting of 8 Market Square

9. The Old Falcon Hotel is a grade II listed building, the adjoining property No. 8 Market Square is also Grade II listed and the properties are located within the St Neots Conservation Area. All are designated heritage assets. In terms of heritage policy in the National Planning Policy Framework (the Framework) the

concept of significance is important, in terms of legislative control, under sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the special architectural or historic interest (including the setting) of the buildings and the character and appearance of the area are necessary factors to establish.

10. Significance is defined in the glossary to the Framework as the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
11. The statutory list description for the Old Falcon Hotel dates part of the property to late C15, added to in the late C17 and again in the early C19 when it was also re-fronted. The C19 frontage provides a 3 storey flat symmetrical façade with vertically proportioned window openings stone arches to windows and incorporates a central carriageway arch on the ground floor, for access to the courtyard beyond. The building has historic and architectural interest in terms of the buildings evolution over the years recording its development and uses; and architectural interest in the design and appearance of the front façade that contributes to the formal market square, which is enclosed by buildings similarly fronted. The evolution of the building includes the rear wings of the main building which stretch back to the river and the two storey cottage on the river frontage which is curtilage listed and dates to the C19.
12. The Appellant's heritage consultant provides a useful plan that identifies the evolution of the building and the Council also make reference to this plan. It is not robustly challenged and is consistent with the list description and the analysis of the buildings evolution.
13. No. 8 Market Square is dated around C17 or early C18 as a timber framed house also re-fronted in the C19. Its significance is derived from the historic development of the building, its timber frame origins, the re-fronted façade and the contribution that makes to the enclosure of the Market Square and the formal elevations of the buildings. No.6 and 8 Market Square and the Old Falcon Hotel are identified as forming a group. The Group forms the eastern enclosure of the market square.
14. The St Neots Conservation Area is a large and wide ranging conservation area that is subdivided into three areas, St Neots, Eynesbury and Eaton Socon. The appeal site is located within the St Neots section. The conservation area's significance derives from the street pattern which in this location includes medieval origins. In the C17, with the opening up of the river the Market Square with merchant premises was developed. In the C19 with the coming of the railway and improved market connections the Market Square was improved and many of the buildings re-fronted. The appeal site and adjoining properties and conservation area present important features in terms of the plot size and shape, building form and the overall contribution to the character and appearance of the area.
15. The immediate surroundings of the site including the market square, the river and the adjoining buildings are all within the setting of the Old Falcon Hotel and the adjoining No 8 Market Square and this contributes to the understanding and experience of these heritage assets and therefore their significance.

16. The proposal seeks consent for the demolition of parts of the existing building and the construction of various extensions to the rear of the building. The proposal would introduce commercial uses at the ground floor and residential accommodation in the floors above including within the retained elements of the historic building as well as in the new extensions.
17. The proposed development would result in the demolition of much of the later additions on the rear wings of the building particularly the C20 extensions on the southern wing, the C19 century extension to the northern wing and the C19 cottage on the river frontage. This would better reveal the more historic elements of the building however would result in some of the later development and evolution of the building being lost. The removal of the river frontage building would provide the potential for greater views of the more historic parts of the building to be viewed from the river and from the opposite bank and bridge. However the proposed new elements of the buildings would disrupt the potential views that would be created. The form scale and materials used would introduce a modern frontage to the river with substantial areas of glazing, zinc roofs and detailing that would distract the attention and confuse the experience of the rear of the historic building. This would harm the historic building its setting and thus the contribution it makes to the Conservation area.
18. The proposed rear extension to the southern wing includes the incorporation of an area of open space to the south of the existing building between it and No 2 River Terrace. The existing appeal site is formed from two original plots. These historic plots were narrow rectangular plots leading down to the river from the Market square. The footprint of the building the arched access to the internal courtyard and the extent and layout of the buildings reflects these historic plots. The proposed extension into the open space adjacent breaks down that linear plot shape and introduces a built form that becomes lateral in shape and form. This may well seek to link the development to the form and layout of the block fronting River Terrace but breaks down and obscures the historic pattern of development that presently exists and which contributes to the significance of the listed building, its setting and the conservation area. The small open space and separation between the building this forms at this location makes an important contribution to the appearance of the conservation area.
19. In terms of the detailed work within the Old Falcon Hotel the appellant contends that its assertions that it will retain as much historic fabric as possible in association with its assessment of the historic integrity of the building is sufficient safe guard and that any detailed level of further safeguarding could be achieved through the imposition of appropriate conditions. Whilst I accept that with the evolution of the building and the nature of its previous use, including as a hotel, much of the original fabric of particular elements have been lost or compromised. I am however concerned that without a full and detailed understanding of the nature of the necessary works to implement the development including means of escape, ventilation, air handling, plant and equipment, extraction equipment and such like it is difficult to make an informed assessment as to the likely impact on the historic fabric of the building and detailed architectural features that it possesses. This lack of clarity means that the statutory requirement to have special regard to the desirability of preserving the building or any features of special architectural or historic features it possesses is not fulfilled.

20. The rear of the properties fronting the Market Square are seen together and the concerns I have expressed regarding the harm arising from the proposed extensions on the rear of the listed building and the contribution this makes to the conservation area also adversely affect the setting of the Old Falcon Hotel and No 8 Market Square which it sits next to. The historic setting, street pattern, plot pattern and appearance of the buildings would be affected and this would adversely affect the contribution the setting makes to the significance of those heritage assets.
21. For the reasons given above I conclude that the proposed development would result in material harm to the listed building known as the Old Falcon Hotel, its setting, the St Neot's Conservation Area and the setting of No. 8 Market Square. The special architectural and historic interest of the Old Falcon Hotel would therefore not be preserved nor would its setting, nor the appearance of the conservation area, nor the setting of No.8 Market Square. Consequently the proposal would conflict with policies EN2, EN5, EN6 and EN9 of the HLP and CS1 of the CS which collectively seek to protect listed buildings conservation areas, views into and out of conservation areas, important open spaces and generally require a high standard of design.
22. The level of harm, whilst including demolition of part of the building, would not result in total destruction of the significance of any of the designated heritage assets. In the context of the Framework I conclude that the level of harm to each of the individual assets is less than substantial harm.

Living conditions

23. The proposed development would result in the inclusion of the current open space to the south of the existing building being incorporated within the extended building envelope. This plot sits between the southern wing of the Hotel and No.2 River terrace and would accommodate a building of some three storeys with the upper storey being partially accommodated in the roof form. The building footprint varies but in effect stretches the depth of No.2 River Terrace. A single storey section, with balcony on top, projects beyond the rear elevation of No.2.
24. No.2 River Terrace is the end property in a three storey modern terrace of properties that back onto the river. There are ground floor windows in the flank elevation, that I am informed have only recently been installed and a bull's eye window at third floor level. There is a conservatory that projects beyond the rear main elevation of the property.
25. Whether the windows have been recently installed or not they are there and they provide an amenity for the occupiers of that property, as does the conservatory. It is not contended that these are subject to enforcement action or are illegal.
26. The proposed development will come to within a very close distance of the flank wall of the property. Any daylight that is received by these opening would be substantially curtailed by the proposed development. The original property was not designed to take advantage of light from the adjoining property and this is a choice that has been made by the occupants of that property. There is, as has been noted by the appellant no right to a view and the introduction of windows has the potential to affect the development potential of the land in question. Also this façade is north facing. However

the issue is not with regard to direct sunlight but outlook and general daylight around the building and received through the windows. I note that the windows in the flank wall at ground level are already affected by the existing boundary fence which reduces the daylight they receive and any opportunity that may exist for outlook. This has to be balanced against the form of the proposed development which with its height scale and siting is a particularly aggressive and dominant building in this location.

27. The conservatory at the ear of the property is in a more open location and although there is a reduction in the scale of the building at this point the building is set such that it would be excessively dominant and significantly impinge on the outlook from that room. Whilst this may not interfere with views directly towards the river it would dominate views towards the north.
28. Overall the proposed development is sited in such close proximity to the boundary that it would be particularly claustrophobic and dominating; it is positioned in such a location that it is excessively strident and unneighbourly.
29. For the reasons given above I conclude that the proposed development would result in material harm to the living conditions of the occupants of No 2 River Terrace, with particular reference to daylight and outlook. Consequently the proposal would conflict with policy H31 of the HLP which seeks to retain amongst other matters appropriate standards of privacy and amenity. This is consistent with bullet point 4 of paragraph 17 of the Framework which advises planning should always seek a good standard of amenity for all existing and future occupants of land and buildings and so is afforded full weight. I also acknowledge that it would conflict with the Policy LP15 HLP:PS 2017 for similar reasons but I accord this conflict limited weight given my comments above on the progress of the plan.

Planning Obligation for Infrastructure requirements

30. The appellant has submitted a planning obligation in the form of a Unilateral Undertaking (UU). The Council although not citing a reason for refusal as the lack of contributions for infrastructure noted in their Statement of case that it had not pursued an obligation to secure contributions in the light of the fundamental objections to the development. However, it is of the view contributions would be required towards formal outdoor sports pitches and for green space provision and maintenance. The appellant had indicated a willingness to meet the request for the contributions and have now put forward a UU to secure the provision of the contributions.
31. Policy CS10 advises that development proposals will providing appropriate infrastructure. It states that contributions will be calculated on the complete developable area rather than the number of homes and floorspace and it includes a list of infrastructure that may be required, this includes open space and recreation (including leisure and sports facilities) and strategic green infrastructure. Further advice is given in the Huntingdonshire District Council Developer Contributions SPD 2011. The SPD relates contributions to dwelling sizes and floor space and indicates that developments of 10 units or more should provide outdoor sports facilities and green space land contributions. The SPD sets out formula and costings to calculate the overall cost related to the number of persons likely to occupy the development. As such the contribution is in scale and kind with the development, is related to the development for the benefit of future occupiers and is necessary to make the

development acceptable. I am satisfied that the requirements for the obligations and the obligations meet the appropriate tests.

32. The Council have identified a number of minor errors in the drafting of the agreement and have questioned whether the document is appropriately signed. Furthermore the UU, in its definitions sections includes a definition of an Outdoor Open Space Contribution and Outdoor Green Open Space Contribution at sums as identified by the Council in line with the formula in the SPD. However section 5, 'the owners covenants', covenants the owner to make a wheeled bin contribution to the Council within 14 days of the commencement of development. The covenant makes no reference to the outdoor Open Space Contribution or the Outdoor Green Open Space Contribution neither of which would therefore be secured by the terms of the UU before me. It is not the place at appeal to negotiate and resolve issues regarding a planning obligation and I can only consider what is before me. Parties are aware of their obligations during the appeal process and these are clearly set out in guidance. The UU before me does not secure the contributions it is intended to.
33. Given that I have concluded that the contributions in respect of the green space and sports pitches are required, the lack of a planning obligation to secure the payment of these contributions requires me to conclude that the proposal does not make adequate provision for the additional need for formal outdoor open sports space and outdoor green space for future residents arising from the development. Consequently the proposal would conflict with policy CS10 in the CS and the Council's SPD on developer contributions.

Other matters

34. The Council contend that it can demonstrate a 5 year supply of deliverable housing sites and provides a recent appeal decision as evidence in this regard (APP/H0520/W/17/3172571). The appellant refers to this decision as evidence as to the weight I should afford to the emerging plan and is therefore content that the decision is based on sound evidence. I have been provided with no evidence to weigh against the conclusions reached in that decision and therefore have nothing that would lead me to a different conclusion. The Council can therefore demonstrate a 5 year housing land supply.
35. The proposal would provide for 14 new residential units along with commercial uses at the ground floor. These would provide active uses appropriate to a town centre location and additional housing. Given the governments advice to Council's to boost significantly the supply of housing this must be seen as a positive benefit of the scheme. However, as the Council can demonstrate a 5 year supply of deliverable housing land and the proposal only provides for 14 additional units, which is a small proportion of the overall housing supply in this Council area, this benefit is only given limited weight.
36. There would be minor positive economic benefits associated with the implementation of the development and the occupation of the development post completion as well as economic benefits associated with the new commercial uses. Given the scale and extent of these however I afford these only limited positive weight.

Overall conclusions

37. I have concluded that the proposal would result in less than substantial harm to the Old Falcon Hotel, less than substantial harm to No 8 Market Square and less than substantial harm to the St Neot's Conservation Area. Paragraph 134 of the Framework advises that where a development proposal will 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 optimum viable use. To ensure I fulfil my statutory obligations under section 16, 66 and 72 of the LBCA I give considerable weight and importance to these harms. Against these harms I balance the positive benefits of the scheme which include the provision of additional housing which I have afforded limited weight, economic benefits associated with the town centre uses and the occupation of the development again which I have afforded limited weight. I note the building is presently unoccupied and is deteriorating however the scheme before me is not in my view a scheme which would preserve or enhance the building and therefore is not one that would result in a public benefit by securing the buildings future, as it would not do so in an acceptable manner. On this basis the harm to the designated heritage assets is not out-weighed by the public benefits of the scheme. To this harm I also add the harm to the living conditions of the occupants of No 2 River Terrace and the harm resultant from the lack of green infrastructure provided.
38. Overall the proposal conflicts with the development plan and there are no material considerations that indicate a decision otherwise than the development plan would be appropriate.
39. For the reasons given above I conclude that both of the appeal should be dismissed.

Kenneth Stone

INSPECTOR