The Planning Inspectorate

Appeal Decision

Site visit made on 1 May 2019

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2019

Appeal Ref: APP/B1415/W/18/3213031
Units A and C, The Roebuck Centre, Roebuck Street, Hastings TN34 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 East Sussex Metals against the decision of Hastings Borough Council.
- The application Ref HS/FA/17/00191, dated 10 August 2017, was refused by notice dated 4 April 2018.
- The development proposed is described as *'Demolition of existing warehouse units A and C. Construction of nine flats, 150 sqm of A1 use commercial space and car parking for the residential and A1 uses.'*

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has produced two Computer Generated Images (CGI). However, only that on the cover of the appellant's final comments document is a correct representation of the actual streetscene, and how the proposed development would sit within. The A3 size depiction is effectively back-to-front, and I have therefore discounted it.

Main Issues

3. The main issues in this appeal are:

   1) the proposal's effect on the character and appearance of the surrounding area, with particular regard to its conservation area location; and

   2) the effect on the living conditions of neighbouring occupiers, with particular regard to any overlooking from the proposed development.

Reasons

Character and appearance

4. The appeal site lies within the widely drawn Old Town Conservation Area (OTCA). The two single-storey buildings, Units A and C, scheduled for demolition, are considered by the Council as non-designated heritage assets (NDHA) within. The wider site, now known as the Roebuck Centre, comprises a series of buildings and employment uses, originally formed part of a late Victorian age brewery complex. It is clear that most of the original brewery

buildings have been demolished or have undergone significant alteration with their appearance modernised**.**

5. Building A, however, is the original red-brick structure, distinctive in form, and redolent of its age. It has also been subject to some alteration, albeit relatively minor. In contrast, my site visit observations showed that building C is not original, having been demolished and, I understand, rebuilt in the 1980's. Although the replacement building reproduces its predecessor's form, with the copying of some architectural detail and inclusion of the original window profiles, it is of limited architectural or historical value. Indeed, it would appear that, save for Unit A and the nearby three-storey Grade II listed 'Old Brewery' building itself, which blends in with the period age buildings behind, the general rebuild would appear to have diminished the significance of this part of the OTCA. Nonetheless, these two remaining original buildings can still be interpreted as an important relic of Old Town's Industrial past.

6. The two rebuilt units immediately north of Building A, with their flank elevations similarly fronting The Bourne, effectively give a 'modern take' on the original style. Although they are unremarkable, as a consequence, building A in its contextual setting now appears somewhat hackneyed. The appellant comments that it is in a poor structural condition, without wall or roof insulation and, in providing a poor working environment, would not be viable to repair, refurbish and modernise the building. However, although the appellant says that building A has now outlived its functional use and purpose, and its demolition would not have any unacceptable harmful impact on this part of the Conservation Area, I have not seen any compelling evidence to back this up. That said, from my site visit observations, I consider that it is in need of some remedial cosmetic treatment. Given the appearance now of the Roebuck Centre, I find that the original character of the brewery complex has been significantly reduced, and it has lost much of its original integrity.

7. The appellant, in support of the proposed demolition, has drawn my attention to planning permissions previously granted on the wider site and mentions that, during the 1980's, the Council took the view that demolition of the buildings would not give rise to, as stated by the appellant, *'demonstrable harm having regard to the character or appearance of this part of the OTCA.'* However, this would have preceded the Planning (Listed Buildings and Conservation Areas) Act 1990, and the statutory duties placed on the decision maker when determining proposals for new development affecting such. Further, it also precedes both the National Planning Policy Framework (the Framework) and the current Hastings Local Plan (which comprises the Borough Council's Planning Strategy, and its Development Management Plan. The proposal must therefore be measured against much more contemporary guidance and development plan policies.

8. Paragraph 197 of the National Planning Policy Framework (the Framework) provides up-to-date advice on related matters, saying that the effect of the proposed development on the significance of a NDHA should be taken into account. A balanced judgement will be required having regard to the scale of any harm or loss and the significance on the heritage asset or conservation area. This is reflected in the objectives of policy EN1 of the Hastings Planning Strategy (PS).

9. Paragraph 193 of the document says that great weight should be given to the asset's conservation, and the more important the asset the greater the weight, irrespective of whether the harm would be substantial or less than substantial to the significance of the asset itself. In relating this advice to the appeal proposal PS paragraph 6.231 says that the Old Town's value as a place to live and work is dependent on its historical character, and any new development would have to be sympathetic to this. The paragraph continues, indicating that the area's buildings should be maintained and preserved in their current form but also, in acknowledging that new development will occur, that it should complement the existing townscape.

10. It is the degree of harm to the asset's significance rather than the scale of the development that has to be assessed. The appellant's Heritage Statement concludes that, overall, the historic significance of the OTCA has not been damaged by the intervention of new buildings. It continues, commenting that buildings which have conceptual logic and an acceptable contextual relationship with adjacent buildings would both preserve and enhance significance of nearby heritage assets, not least in displaying a good aspect of sustainable development. Within the OTCA as a whole, I accept this.

11. Despite several of the buildings at the Roebuck Centre having been demolished and rebuilt, some important characteristic elements remain, of which building A is one, and these still play a role in the character of the OTCA. Also, when travelling northwards along The Bourne, both buildings A and C are visible. Indeed, from a distance, and due to their similar form and design, it is not so easy to discern the differences in age between buildings A and C. In this context, whilst I find that the demolition of building C as a single entity would hold limited implications for the significance of the OTCA, longer views, especially from higher ground, show the wider site still holds value, and both buildings play a contributory part in this.

12. With this in mind I turn to the development itself. In the context of Wellesley Court, I consider that the proposal, aside from their close proximity in parts, would represent an attractive, articulated building which would hold particular visual interest. The intended use of external materials and glazing would give the development something of a modern, maritime feel, reflecting the topography of the land and also its immediate contextual setting to the south and west. I acknowledge that the development would not respect the remaining single storey buildings immediately northwards along The Bourne but, as mentioned, these are of little individual merit and do not make a positive contribution to the OTCA. As such, I disagree with the Council's stated assessment that the new building's mass would dominate the entire road frontage, with no relief or variance.

13. The demolition of a NDHA in a conservation area cannot be treated as harm to a designated asset in isolation, but that the scheme as a whole needs to be considered with the demolition being just one factor in this. Despite this, it is clear from its assessment that the Council does not consider the proposed scheme appropriate in the circumstances. In the circumstances, and given the various factors involved and required considerations, I am not convinced that the Council has afforded the new development a full objective assessment. Although I agree with the Council that the NDHAs positively contribute, to an extent, to the character of the OTCA, I disagree with its assertion that their

loss would constitute 'substantial harm' to the significance of the heritage asset. This, I feel, has firmly predicated the Council's case.

14. From my site visit observations I find that the buildings' visual contribution is mainly in the context of the Roebuck Centre itself. Although, this former brewery site represents an integral part of the OTCA's character and appearance, I consider, in the circumstances, that the harm by way of the development, would be 'less than substantial', in the words of the Framework.

15. Nonetheless, although there would be public benefits with the provision of new housing, there would appear to be little benefit to the significance of the OTCA itself. 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. These may include heritage benefits, such as sustaining or enhancing its significance by, in this instance, fully exploring the viability of retaining the NDHAs and securing their optimum viable use in support of their long term conservation.

16. From the evidence before me I am not convinced that the appellant has fully explored these matters and, although I note that the scheme would re-provide some 150sqm of the 183 sqm employment floorspace that would be lost through the buildings' demolition, I must balance this with the fact that both these buildings are currently occupied. Their floorspace and form is therefore clearly suitable for certain types of user whereas there is no guarantee, or detailed evidence supplied, that replacement units of the form proposed would be likely taken up.

17. In the circumstances, I do not consider that the appellant has properly and convincingly assessed the significance or otherwise of either of the two NDHA buildings, nor their potential and, in the absence of compelling information and evidence to the contrary, the case for their demolition has not been made.

18. I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Given the scheme, and its implications as a whole, the character of the OTCA would not be preserved.

19. Taking everything into account, whilst I consider that the harm would be less than substantial, I must conclude that the proposal, as put forward, would be harmful to the significance of the OTCA heritage asset and that, in this context, it would also cause harm to the character and appearance of the surrounding area, being particularly contrary to the objectives of PS policy EN1, policies HN1, HN5 and DM1 of the Hastings Development Management Plan (DMP), and also relevant advice within the Framework.

Living conditions

20. The Council has raised concerns as to the impact of the proposed building on certain Wellesley Court units by reason of them being overlooked from persons occupying the proposed flats. The Council considers that those units susceptible would be No 1-3 and 21-25 Wellesley Court. Turning to the latter block, the proposed building would abut the 3-storey high flank elevation of No 24, and also its adjoining single-storey garage block. Although this flank wall appears to have no windows within, the proposed upper floor bedroom

windows towards the northern end of the new building's facing elevation, due to their close proximity, could give rise to a degree of overlooking and loss of privacy. Of less significance is the potential overlooking of the Wellesley Road courtyard from first and second floor bedroom windows towards the opposite end of this facing elevation. These are secondary windows and could be obscurely glazed, whilst the courtyard appears communal for Wellesley Court residents.

21. Turning to the considered overlooking of Nos 1-3 Wellesley Court, a three storey block immediately to the south of the proposed building, I have had regard to the appellants representations as to why the relationship between the two buildings would not unduly impact on the neighbouring occupiers. However, the submitted layout plans do not show the elevational line and window positioning in the existing block to allow for a more complete assessment. Given the closeness, as depicted in the CGI, and the proposed facing balconies, I would consider that more comprehensive illustrative material is necessary to justify the appellant's case in this particular regard.

22. In the absence of such, I conclude that the proposal would be potentially harmful to the living conditions of neighbouring occupiers, contrary to the objectives of DMP policy DM3 and paragraph 127(f) of the Framework.

Other considerations

23. In terms of the proposal's effect on the nearby 'Old Brewery' building I have a particular duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the desirability of preserving the listed building's setting. The Council has found that no significant harm would occur in this respect, and I agree with this approach.

24. The most recent 2018 measurements show that the delivery of housing within the Borough was some 98% of the Council's housing requirement over the previous three years. On this basis the Council has just fallen short of its requirements when applying the Housing Delivery Test. Whilst I have had regard to this shortfall the resultant adverse impacts which I have identified would significantly and demonstrably outweigh the benefits of the additional housing created through the scheme. Accordingly, it has not altered my conclusions.

Conclusion

25. I have found potential harm on both main issues, which is compelling. For the above reasons, and having taken into account all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR