



Appeal Decision

Site visit made on 11 June 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2019

Appeal Ref: APP/W4515/W/19/3224819

26 to 37 Clive Street, North Shields NE29 6LD

- 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 Green, J C Quay Limited against the decision of North Tyneside Council.
 - The application Ref 18/00300/FUL, dated 6 March 2018, was refused by notice dated 19 December 2018.
 - The development was originally described as the "demolition of the former North Eastern Rubber Company factory buildings at 26 to 37 Clive Street and the construction of three residential apartment blocks, totalling 54 one and two bedroom apartments (some with study) and associated parking provision."
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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 planning application form. Revised plans were submitted during the course of the application and the description was amended so that it concerned the "demolition of the former North East Rubber Company factory buildings and construction of three residential apartment blocks, comprising of 49no one and two bedroom apartments and 1no two bedroom townhouse and associated parking provision (Various amendments received 8.06.18 including reduction in the no of dwellings, reduced height of block C, omission of 4 undercroft parking spaces and elevation details)." Accordingly, I have considered the appeal on this basis.
3. The appellant proposed further amendments through the appeal and this resulted in the submission of a significant number of amended plans. I was concerned, however, that with these revisions the scheme would not be essentially what was considered by the Council when it made its decision and not what interested parties would have commented upon on that time. It is not the purpose of the appeal process to evolve proposals. Hence, my appeal decision is based on the same scheme that was before the Council. The appellant has the option of submitting a planning application to the Council for a revised scheme and I understand this has now occurred.
4. The appellant also submitted a planning obligation under Section 106 of the Town and Country Planning Act 1990 (Section 106 Agreement) during the appeal. The Council has commented on this document.

Main Issue

5. The main issue is whether the proposal would preserve or enhance the character or appearance of the Fish Quay and the New Quay Conservation Areas.

Reasons

6. The appeal site comprises 3 buildings and associated land that were part of the former North East Rubber Company. The main building is a large factory-like structure and close to it there is a much smaller 2 storey building. The remaining building is found beyond a yard area and the site access. The buildings are fairly modern in their form or have being the subject of more recent alterations from when they were originally constructed. They are varied in their appearance, including with the differing roof types, height and scale. It is understood that the site has not been in use for a number of years.
7. The site is located between Clive Street and the River Tyne. The gaps between the buildings on the site, and between the main building and the adjacent Porthole building, allow for pleasing views of the river from Clive Street. A steep bank is found on the opposite side of the road, with Yeoman Street at the top of the bank. Borough Road also leads up the side of this bank.
8. The majority of the site lies within the Fish Quay Conservation Area, with a small part nearest the Porthole building in the New Quay Conservation Area. These 2 conservation areas differ significantly in relation to their character. The Fish Quay Conservation Area, despite the recent addition of apartment type developments, retains an industrial character and this is reflected in the functional appearance of a number of buildings it still contains. The New Quay Conservation Area presents more of a grander character with the form of its buildings. The distinction between the character of these conservation areas is most evident as the site is approached down Borough Road.
9. The industrial character of the existing buildings on the site, even though they are in some state of disrepair and largely modern in their appearance, resonate with the historical significance of the Fish Quay Conservation Area. With the variations there are in the appearance of the buildings on the site, this is also reflective of the eclectic mix that are a characteristic of this area. Consequently, that the joint FISHcast Community Character Statement for the conservation areas (Character Statement) considers the North East Rubber Company building is out of character needs to be considered within this context. Nevertheless, the Character Statement is correct when it identifies that the site is very sensitive. It is found close to the gateway to both these conservation areas and it is also clearly visible from the higher land on Yeoman Street.
10. The proposal would involve a fairly uniform arrangement of buildings on the site that would be markedly similar in their overall appearance. Where there are differences in the height that would seek to reflect the buildings on each side of the site, with the linear form of the proposed buildings, these differences would be less readily apparent. From the Clive Street frontage, they would lack visual interest. Hence, it would not contribute favourably towards the significance of the Fish Quay Conservation Area with the importance in the variation of buildings as an aspect of the character. Nor am I persuaded that such a layout is a necessity in order for the proposed

buildings to be orientated towards the river. It is evident that buildings in the area have historically managed to achieve this whilst providing more variation in their form and arrangement.

11. This detrimental effect would also be apparent from Yeoman Street. The current blend of roofscapes on the site would be replaced by the appearance of the more uninspiring forms of the flat roofs on the proposed buildings. As such, it would disrupt the views from Yeoman Street and that the overall height of the buildings would be at a lower level would not substantially reduce this effect.
12. The North Shields Fish Quay Neighbourhood Plan Supplementary Planning Document (2013) (SPD) identifies that slot views should be created using the form and massing of new development, such as at Clive Street, as part of its design principles. Accordingly, I have considered the slot views drawings submitted by the appellant. However, the views there would be from Clive Street around the buildings to the river would be noticeably lessened under the proposal. The view which corresponds to Shepherds Quay, between the existing main and nearby smaller building would be reduced by the presence of car parking, when in use. The views through the existing access would also be disrupted. This would detract from the important contribution of these views through the site to the significance of this conservation area.
13. With regard to the modern apartment buildings that are further along Clive Street, the Character Statement identifies these largely detract from the Fish Quay Conservation Area. Moreover, the appeal site is found in a more prominent location and so the design of a development on this site has to more carefully respond to its location, in order for the effect on the significance to be acceptable. Nor is it apparent how the proposal seeks to follow design cues from the qualities of the New Quay Conservation Area. Overall, it would not have what could be considered to be a positive relationship with its surroundings, in conservation area terms.
14. The Council's reason for refusal also considers the proposal would lack innovation in its design. The appellant has pointed out that the associated development plan policy that the Council has referred to, Policy DM6.1 of the North Tyneside Local Plan (2017) (LP), does not include this provision, as well as commenting that the SPD is not the primary basis of decision making. Nevertheless, with the sensitivity of the location in relation to both conservation areas and the strong protection that is afforded to designated heritage assets through the planning system, there is some expectation that the design response should be befitting. For the reasons set out above, this would not be achieved. In coming to this view, I have considered the totality of the heritage evidence before me.
15. I conclude that the proposal would not preserve or enhance the character or appearance of the Fish Quay and the New Quay Conservation Areas. Hence, it would not accord with the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which I am bound to consider. It would also not comply with Policy DM6.1 of the LP which concerns high and consistent design standards; designs specific to place, based on a clear analysis of the characteristics of the site, its wider context and the surrounding area; as well as that proposals are expected to demonstrate a design response, including to site orientation and existing buildings, and a

positive relationship to neighbouring buildings and spaces, amongst other considerations.

Other Matters

16. The Porthole Building is grade II listed. It is a former public house which, at the time of my site visit, was undergoing renovation. It is a 2 storey building and its special interest externally derives from a number of decorative features. The elevation which faces away from the site also contains 2 prominent gables. The sides of the building which are closest to the site are much plainer in their appearance and display few of the qualities of special interest. The building's setting largely derives from the orientation of its main elevation over a small open area in front of the neighbouring Dukes Court and then down New Quay. The proposal would be largely on the opposite side of the building. As a consequence, it would preserve the setting of the listed building and accord with Section 66(1) of the Act.
17. The site lies in proximity to the Northumbria Coast Special Protection Area (SPA) and the Northumbria Coast Ramsar Site. The submitted planning obligation provides for a financial contribution towards the provision of mitigation associated with the SPA. If the circumstances leading to a grant of permission had been present, I would have been required to give further consideration to the impact upon the European Sites in accordance with the Habitats Regulations, and whether the planning obligation meets the tests under the Community Infrastructure Levy Regulations. However, as I am minded to dismiss the appeal on other grounds, no further consideration of this matter is required.

Planning Balance

18. The National Planning Policy Framework provides for the harm to the significance of designated heritage assets to be considered against the public benefits. The proposal would bring back into use a previously developed site that is in an accessible location as regards local services. The site is also allocated for housing under the LP and, in perusing the various Council planning documents that I have been referred to, there is a clear aspiration for this vacant site to be re-used. It would make a contribution to the Council's housing land supply, and also bring economic and social benefits. The regeneration benefits under the LP would be, though, tempered by way of the harmful effects on the designated heritage assets. When taken together, these benefits attract moderate weight in my decision.
19. The proposal would not be unacceptable as regards flood risk and drainage, noise and other living conditions related matters, highways safety, pollution and contaminated land, waste and archaeology. It would provide acceptable living conditions for its future occupiers. As with the effect on the setting of the listed Porthole Building, these matters attract neutral weight. The proposed means of dealing with the biodiversity issue by way of mitigation can attract no more than this same level of weight.
20. I am aware that the appellant has stated that feasible opportunities do not exist to make further amendments and has explained why. However, in the balance, I am mindful that when considering the impact of the proposal on the significance of the designated heritage assets, great weight should be given to

these assets' conservation. Overall, I find that the benefits would not outweigh the harm to the designated heritage assets.

21. Interested parties have raised a number of other issues. As I am, though, dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have, therefore, not had a significant bearing on my decision. The appellant has drawn my attention to the views of the Officer in the report to the Planning Committee and that the proposal was amended during the course of the planning application. I have, though, dealt with the appeal on the basis of the merits of the proposal before me.

Conclusion

22. The proposal would not preserve or enhance the character or appearance of the Fish Quay and the New Quay Conservation Areas. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Accordingly, I conclude that the appeal should be dismissed.

Darren Hendley

INSPECTOR