The Planning Inspectorate

Appeal Decisions

Hearing Held on 10 July 2019
Site visit made on 10 July 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal A Ref: APP/Q3060/W/18/3209021
Site of 10 Raleigh Street, Nottingham NG7 4DD

- 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 Asiana LLP against the decision of City of Nottingham Council.
- The application Ref 17/02563/PFUL3, dated 10 November 2017, was refused by notice dated 14 February 2018.
- The development proposed is described as stop up street corner, erect five storey building containing 18 apartments, lay out car park and landscape.

Appeal B Ref: APP/Q3060/W/19/3229044
Site of 10 Raleigh Street, Nottingham NG7 4DD

- 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 Asiana LLP against the decision of City of Nottingham Council.
- The application Ref 18/01143/PFUL3, dated 5 June 2018, was refused by notice dated 18 April 2019.
- The development proposed is described as a new four storey building containing 16 apartments.

Decision

1. Both appeals are dismissed.

Procedural Matters

2. In respect of appeal B, I have taken the description of development from the appeal form since the number of flats reduced from 18 to 16 following design alterations during the life of the planning application. I invited the views of both main parties in respect of my use of this description at the hearing and there were no objections. I have therefore proceeded on this basis.

3. One of the reasons for the refusal of appeal A was that the development failed to provide for contributions towards open space commensurate with the requirements of the development plan. This reason was not included on appeal B since, according to the Council's delegated officer report, the appellant had confirmed willingness to enter into a planning obligation to provide the necessary contributions.

4. The appeal documentation included draft planning obligations for the payment of commuted sums for the improvement of local play space in respect of both

appeals. Final drafts were presented at the hearing. The Council confirmed at the hearing that they were content with the schedules and the amounts specified and that it would be directed to a local play area at Grant Street. The main parties and I walked the distance between the appeal site and Grant Street and whilst the distance was not short, I felt it was reasonable for access purposes, appreciating also that this was the closest practical option that could reasonably benefit from contributions. I was informed that it had received no other contributions from other development. With this and the above in mind, when also factoring in the scale of the proposed development and the requirements of the development plan, I am of the view that the contributions are fair and proportionate to the likely impacts of the appeal scheme.

5. The draft obligations have, following the hearing, been completed. The Council have confirmed that what they provide would obviate the need for the third reason for refusal in respect of appeal A. Taking my earlier comments into account, I see no reason to disagree. Indeed, following discussion of these matters at the hearing, both main parties were content to proceed on this basis.

Main Issues

6. With the above in mind, there are two main issues. These are, in respect of appeals A and B, the effect of the proposed development on the living conditions of existing neighbouring occupiers; and, in respect of appeal A only, whether the proposed development would preserve or enhance the character or appearance of the Gamble Street and Alfreton Road Conservation Area (GSARCA).

Reasons

Living Conditions

7. In regard to this main issue, the crux of the Council's concerns appear to stem from the effect of the height and proximity of the proposed building in the case of each appeal and how that would detrimentally affect light into and outlook from certain rooms in existing flats that are part of the Portland Square development which is an existing large scale multi storey flatted scheme.

8. Whilst they differ in overall height, both appeal schemes seek to effectively extend the existing building that forms Portland Square. The extension would project from what is currently a blank elevation on the rear of Portland Square that faces Stoneleigh Street. Immediately adjacent the aforementioned blank elevation is an inset section of Portland Square's rear elevation which features four pairs of French door style openings with Juliet style balconies over multiple floors. These openings serve open plan kitchen and living spaces. Set at right angles to the run of openings closest to the blank elevation are windows that serve the second bedroom of a two bed unit on each floor. In the case of both the kitchen/living spaces and the second bedroom, these are the rooms' only windows.

9. The appellant, both during the life of the planning application and the appeal, has submitted detailed studies that assess the levels of daylight into the rooms concerned that would be available in the event of the extension being erected for appeals A and B. This is analysed against the existing situation. Whilst it seems clear there would be a reduction, I have no compelling case to the

contrary that would make me doubt the findings of the assessments that such a reduction would not be to a point that existing occupiers would have an unacceptable amount of daylight into the rooms of their flats that would face the extension.

10. However, and in the case of appeal A, the scale and height of the building, and in particular the section that would return and 'face' the run of windows closest to the extension would be in close proximity to them. So close in fact that it would all but dominate the outlook from what is the only window, garnering an enclosed and oppressive feel to the space in the room. In the case of the bedroom windows, I appreciate that the extension would be largely alongside it and thus not in direct line of sight but when taking into account the scale and proximity of the rear elevation of Portland Square, occupiers of the bedrooms could experience something of a tunnelling outlook which could exacerbate what is already a sense of restriction and enclosure when factoring in the extent and proximity of the extension's return section.

11. The appellant raised a number of factors that would, in their view, reduce any harmful effect on outlook. In terms of the ground floor unit, the French style doors currently look onto a high sided close boarded fence which, I agree, offers a poor level of outlook. Nevertheless, siting a multi storey building so close to this opening only has the potential to make a bad situation worse.

12. In the case of the distance between the kitchen and living space windows and the return section of the extension on appeal A, the appellant argues that this is not materially different to the distance between the bedroom windows and the opposite flank wall of the inset section that they face. Be this as it may, this is an existing situation over which neither I nor the decision on these appeals can have an effect. It is not before me to determine. In any event, the opposite flank wall in this case is much narrower in depth that the return section of the proposed extension. Consequently, I do not feel the two situations are sufficiently comparable.

13. The appellant raised the point that due to the positioning of the French style openings relative to the room they serve (being effectively in the corner) any views forming the outlook would be at an oblique angle away from the return section of the extension. If one were to stand immediately at the opening then I agree that there is perhaps some credence to this. However, the same position in the room, as well as from others where a view out of the window is available, there would still be an obvious awareness of a building of substantial scale and height in close proximity and this would still yield a feeling of being hemmed in.

14. In the case of appeal B, I note that some concessions have been made in the extent of new building that would form the return section. In the main, this appears to have been to both its depth and siting relative to the kitchen and living space windows in the Portland Square flats. Whilst I would say this would go some way towards addressing the concerns I have explained above, the changes would not be so significant that I would be inclined to allow it. Whilst reduced by what I would fairly refer to as a marginal degree, it would still give rise to the harmful effects I have set out.

15. The appeal site used to consist of a group of buildings that formed a public house prior to its demolition and the site's clearance. I accept that these buildings, since they were in existence when Portland Square was built, would

have had an effect on the outlook from the windows in question. Nonetheless, the scale of the main building to the public house was much smaller. It had a pitched roof and a number of lower rise extensions. In terms of its overall land take, scale and height the public house is far from on par with that of the proposed extension in the case of both appeals.

16. Taking the above into account, it is my conclusion on this main issue that the proposed development in both cases would be harmful to the outlook from windows that serve kitchen and living spaces as well as bedrooms. Whilst I appreciate that occupiers of the clerestory section on the top floor of Portland Square would not be so encumbered by the extension, the same cannot be said for occupiers of the lower floors, particularly those up to and including the flat immediately below the parapet wall and the run of windows closest to the proposed return section. This would accordingly cause harm to the living conditions of existing neighbouring occupiers, such that it would result in conflict with Policy 10 of the CS[1] which sets out that development will be assessed in terms of, amongst other things, its impact on the amenity of nearby residents or occupiers.

Character and Appearance – The GSARCA

17. The appeal site is a vacant parcel of overgrown land to the rear of an existing multi storey flatted development. It is flat, roughly rectangular and bordered by a mix of close boarded timber fencing, metal railings and Heras style construction fencing. It is previously developed land, formerly being home to a complex of buildings making up a public house which was, as historic information confirms, an end terrace building that faced Stoneleigh Street.

18. Overall, the existing site makes a neutral contribution to the GSARCA. Surrounding built form consists of large scale converted and extended former industrial buildings as well as smaller scale flats and two storey terraced dwellings. The street pattern is grid like, with some development abutting its back edge. Density is high, structed and linear, decreasing slightly outside of the GSARCA with more landscaped informal clusters of dwelling units.

19. The proposed development, as I have set out above, would see the rear section of the existing Portland Square development extended towards Stoneleigh Street, along its Raleigh Street boundary. It would square off a section of its corner and comprise five storeys, the fourth floor being in a clerestory roof section set in from the main building. It would be roughly linear, returning to form an L shape floor plan. Given its size and situation, it would be noticeable in a number of views along and across the network of streets in the area both inside and outside of the GSARCA.

20. The shape of the proposed extension and its situation abutting the back edge of the Raleigh Street pavement would not appear unusual in the existing context. It would be subservient in land take and overall height to the building it would be attached to. It would also extend a more modern addition to a historic converted industrial mill type building allowing it to be read accordingly. A projection of this type, resulting in an odd shape to the total building, is also not uncommon, an example of this relationship existing to the

[1] Greater Nottingham Aligned Core Strategies: Part 1 Local Plan (Broxtowe Borough, Gedling Borough & Nottingham City) 2014

opposite side of Raleigh Street where old is mixed with new and projections do not necessarily follow a uniform shape.

21. I agree that there would be a marked change in scale between the proposed development and the much smaller buildings on the opposite side of Stoneleigh street. However, there is a degree of physical separation as well as the fact that the two areas represent marked contrasts in scale in any case and whilst it would be possible to see them together in some views, the extension would be clearly read as part of the Portland Square block rather than a standalone building that might 'bridge' the difference.

22. I don't have any hard and fast objections to the use of materials which can in any case be considered in further detail through the imposition of conditions. The building is clearly a modern example of its type but the use of a strong and uniform fenestration rhythm and largely conventional shape to the building harks to a utilitarian industrial form that the area is noted for. The use of a clerestory to the roof could be considered uncharacteristic of such a form but again this is a modern building design that would be attached to one equally so which also has such a feature. A feature which is not wholly uncharacteristic of similar buildings the GSARCA.

23. With the above in mind it might seem somewhat harsh to single out an individual element of the design for criticism but I feel, due to its size, location and height, the lift overrun and smoke shaft would have an adverse effect. The section would sit atop the building, noticeably clear of the clerestory. Its height would bring it roughly in line with the total height of Portland Square and it would have a wide profile when viewed from the Portland Road direction. It would appear somewhat odd, bulky and ungainly high above the total height of the building and intrude on the clean roof lines of surrounding buildings.

24. As part of discussion at the hearing and during the site visit my attention was drawn to vertical protrusions above the ridge height of some buildings and thus one could legitimately argue that such a feature is not uncommon. However, these tended to limited in number and altogether quirkier and more quaintly proportioned features of older buildings of a noticeably different design, form and overall size to the appeal scheme. Consequently, and as a deliberately more modern example of a taller building in the GSARCA I don't feel that such a feature would be appropriate.

25. With this in mind, the proposed development would cause harm to the character and appearance of the area and thus the GSARCA. Given the nature of the element that would cause the harm in the wider context and accepted matters, such harm would be less than substantial. As per paragraph 196 of the Framework[2], I am required to balance such harm against the public benefits of the scheme. These were discussed at the hearing and referred to in the Statements of Common Ground.

26. The appellant advanced that the appeal site is in a sustainable location with regard to the choices residents would have to access services on which they would rely for day to day living. The site is at a low risk of flooding and of a format, density and layout that would not be harmful to future occupiers. Parking would be provided. The scheme would also deliver alterations to improve/re align part of the junction of Stoneleigh Street and Raleigh Street

[2] The National Planning Policy Framework 2019

and in so doing re instate some of the historic road shape. The delivery of new housing would be secured, as would the redevelopment of a brownfield site.

27. I note the majority of these factors mainly consist of areas in which the appeal scheme would acceptable. As a lack of harm therefore, they would be neutral in the balance. The delivery of housing would widen choice and mix for the public albeit I have seen no compelling evidence that the Council is either in an undersupply or under delivery situation. The alterations to the road junction would be small in the grand scheme and whilst they could have a reducing effect on vehicle speed on the surrounding streets, the roads are quiet and lightly trafficked side roads that are mainly used for residential parking and access to houses. The proposed development would secure the redevelopment of a vacant brownfield site but at the expense of, in this case, one that includes inappropriate design elements.

28. I am therefore not persuaded that the sum total of public benefit to the proposed development would be such that the harm arising in the manner I have described would be outweighed. The appeal scheme would therefore fail to either preserve or enhance the character or appearance of the GSARCA, contrary to the aims of section 16 of the Framework and Policies 10 and 11 of the CS and Policy BE12 of the Local Plan[3]. Amongst other things, these policies and approaches seek to ensure that new development preserves or enhances the character or appearance of conservation areas. They also state that development should be designed so as to make a positive contribution to the public realm and be appropriate in terms of massing, scale and proportion.

Other Matters

29. I have alluded to some areas in which the appeal schemes would be acceptable which, I acknowledge, would result in compliance with a number of policies in the development plan. Whilst this is the case, this would not be sufficient to reduce or override the multiple harms that I have found nor the conflict with other policies of the development plan which, when taken as a whole, the proposed development in both cases would not be in accordance with.

Conclusion

30. I have had regard to other matters raised which include representations by local residents but it is for the reasons I have set out above that the appeals are dismissed.

John Morrison

INSPECTOR

[3] Nottingham Local Plan 2005

APPEARANCES

FOR THE APPELLANT:

Mr Steve Simms MA MRTPI	SSA Planning
Mr Julien McGuinness RIBA	Rayner Davies Architects
Mr Jamie Brown	Rayner Davies Architects
Mr Kapil Lathia	Appellant
Mr Sam Sancha	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Phil Shaw	Nottingham City Council

DOCUMENTS SUBMITTED AT THE HEARING:

- Copies of relevant policies from 2005 Local Plan and Aligned Core Strategies 2014 by the appellant
- 1:1250 map reproduced at A4 showing local residential development densities by the appellant