



Appeal Decision

Hearing Held on 26 June 2019

Site visit made on 26 June 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2019

Appeal Ref: APP/Q3060/W/18/3214948

Priory Mission Hall, Priory Street, Nottingham NG7 2NX

- 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 Peter Johal (Vivid Homes Limited) against the decision of City of Nottingham Council.
 - The application Ref 17/02010/PFUL3, dated 6 September 2017, was refused by notice dated 18 May 2018.
 - The development proposed is described as the "Demolition of existing Mission Hall, down to foundations, and rebuild to form 6 new apartments. Submission of revised planning application following conditional approval of previous application in 2005 ref: 05/0044/PFUL3".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing I was presented with several documents. Although I was provided with a statement of common ground, it had not been signed by either party. The appellant's archaeologist also provided a response to the Council's statement in a letter dated 10 June 2019. The representative for the Nottingham Civic Society provided a plan of Lenton Cluniac Priory (LCP) with the appeal site marked out where it would have been in relation to its layout. I was also provided with a copy of the Council's letter notifying neighbours of the Hearing dated 4 June 2019.
3. Each party accepted the late submission of these documents which I have taken into account in reaching my decision.

Main Issues

4. The main issues are the effect of the development on:
 - the scheduled monument and its archaeology;
 - the living conditions of future occupiers with particular regard to outlook, privacy, light and disturbance; and
 - the character and appearance of the area including the setting of designated heritage assets.

Reasons

The Scheduled Monument and Archaeology

5. Priory Mission Hall is a single storey building that is sited between a three storey building at No. 5 Priory Street and a public house known as the Boat House (the BH). To the rear of the appeal site is the Priory Church of St Anthony and its grounds which contains the remains of LCP which is a Scheduled Monument under section 1 of the Ancient Monuments and Archaeological Areas Act 1979. Scheduled Monuments are, by definition, of national importance. Annex 2 of the National Planning Policy Framework (the Framework) defines a designated heritage asset to include, amongst other things, scheduled monuments.
6. The archaeological remains that exist under the appeal building do not form part of the scheduling of LCP. However, in objecting to the development Historic England considered that the remains of the Priory Church have that extend below the appeal site to be non-designated heritage assets. Thus, the significance of the site is a nationally important monument whose preservation is highly desirable and as such the archaeological remains fall within the scope of footnote 63 of the Framework and having reference to paragraph 194 of the Framework, any harm to the significance of a designated heritage asset should require clear and convincing justification.
7. The proposal seeks to demolish the existing building and replace it with a three storey building to be used as residential accommodation. The primary concern from the Council is that the existing building cannot be demolished without disturbing archaeological remains that exist under the building. The appellant argues that the development would utilise the existing foundations for the new building which is supported by a structural engineer's report (SER)¹. However, it is accepted that new internal foundations would be unavoidable given the spans involved within the building. Nevertheless, works could be subject to an archaeological watching brief and all matters relating to the safeguarding and reporting of archaeological remains at the site can adequately be controlled through suitably worded conditions.
8. I have carefully considered the appellant's arguments on this matter and the additional information and drawing provided in the letter from the appellant's archaeologist² accepting that further work is required to reassure the Council that the proposed foundation work will not adversely affect the significance of the heritage asset. However, notwithstanding the information provided by the appellant, the SER and additional letter leave too much uncertainty and only suggests that it is a 'possible' way forward to reuse the existing foundations. Moreover, the plan submitted with the SER is a "*very basic initial structural scheme*" which suggests to me that additional work would be required to evolve that scheme to ensure that any archaeological remains that exist are protected.
9. I do not find that the additional drawings supplied by the appellant expands sufficiently to allay any concerns that both Historic England and the County Archaeologist raise over the veracity of the SER and its objection to the development until a more detailed assessment is provided. Moreover, having

¹ Construction Design Solutions Ref 2017-7133/AH/DG dated 5 May 2017

² Trent & Peak Archaeology dated 10 June 2019

regard to footnote 63 and paragraph 193 of the Framework, great weight must be given to the conservation of a heritage asset and in this particular case, given the nature of the development that could potentially affect a nationally important monument, I am not persuaded that such matters could or even should be the subject of a condition until more information is provided to ensure that any archaeological remains are protected.

10. Furthermore, at the Hearing the appellant confirmed that the reason why further investigation could not be carried out before any permissions are granted was essentially pecuniary. I do not find this an irresistible reason to find in favour of the proposal as such personal matters do not relate to the development before me. Moreover, while I acknowledge that the existing building is in a very bad state of repair with roof trusses and the floor collapsing in parts, I do not consider this a persuasive reason to find in favour of the development that could result in harm to the asset's conservation.
11. I also acknowledge that the appeal site has been the subject of a previous planning application³ that allowed the redevelopment of the site and the erection of four dwellings. However, this permission has now expired and therefore carries very little weight as a material consideration.
12. Thus, it has not been satisfactorily demonstrated that the development would not result in harm to the significance of the heritage asset by virtue of its impact on archaeological remains of a nationally important monument. The harm caused would not be outweighed by any public benefits of the proposal such as the provision of dwellings for the City. It would be in conflict with Policies BE15, BE16 and BE17 of the Nottingham City Council Local Plan 2005 (the LP), Policy 11 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014 (the CS) and the Framework which seek, amongst other things, to ensure that development that is likely to adversely affect scheduled monuments or archaeological remains is not supported.

Living Conditions

13. The development proposes six flats within the building which would be provided over three floors. A pedestrian access into the rear of the site would follow the side elevation of flat 02 at ground floor level and onto a void that would allow light into bedrooms and bathrooms throughout the three floors. However, I have not been provided with any light surveys to demonstrate that the bedrooms that face onto the void would receive adequate levels of light. Although the void will serve mainly the smaller bedrooms within the development, these are not always used exclusively at night just for sleeping, but are also areas where one may choose to relax, away from other family members or occupants of the flat. As such, the outlook the bedrooms are afforded would be limited to the void and would not provide a reasonable level of amenity for future occupiers.
14. Furthermore, the access from the rear would also be the principal entrance into the site from the parking area and would pass two bedrooms within flat 02. This would result in general disturbance to the occupiers of the flat. Moreover, although the appellant has sought to amend the scheme so that direct overlooking between bedrooms does not occur, at a distance of some 3.2m

³ 05/00440/PFUL3 dated 2 August 2005

between the bedroom 3 of flat 03 and bedroom 3 of flat 04 would not be sufficient to ensure that overlooking between these areas does not occur.

15. Thus, the development would harm the living conditions of future occupiers, having regard to disturbance, outlook, privacy and daylight. It would be in conflict with Policy 10 of the CS which seeks, amongst other things, to ensure that the living conditions of occupiers is acceptable.

Character and Appearance

16. To the rear of the site are remains that form parts of the LCP boundary wall which is located between the BH, the site and the churchyard. Within the church yard are grade II listed structures such as the Wright family vault and other chest tombs. The proposed replacement building would be developed over three floors and constructed of red facing brick under a slate roof. The development would also incorporate stone heads and cills to the windows that have been amended so that they adopt a vertical emphasis, similar to the windows on the adjoining buildings. The rear elevation would be constructed of the same materials, although a flat roof element would contain timber cladding at second floor level.
17. At the Hearing, the Council argued that as the eaves of the proposed building would not follow the eaves of the BH it would result in a jarring and discordant development that would harm the character and appearance of the area. Moreover, the proposed front door is undersized and does not provide one with a sense of arrival given the width of the façade. Furthermore, the rear elevation gives the impression that the building has been designed from the inside out, with a greater emphasis given over to the internal accommodation rather than its external appearance.
18. Notwithstanding my findings on the internal arrangement of the accommodation in relation to the living conditions of future residents, I do not find the overall design of the building to be wholly objectionable. Although I accept that the design is unremarkable, it nonetheless attempts to take cues from buildings in the vicinity, such as No. 5 which is immediately to the west of the appeal site. The use of red facing brick work and slate with stone detailing would result in a building that reflects its position within Priory Street. Furthermore, although the eaves would not match those on the BH, I am not persuaded that the public house would lose its prominence within the street scene. The external appearance of the BH with its tiled principal elevation and oversailing eaves along with the open space that forms its garden area would assist in the building retaining its prominence along Priory Street, especially when viewed from the junction of Abbey Street and to the east along Priory Street. Moreover, I do not find the size of the front door to be undersized or would fail to integrate successfully with its front elevation as it appears to be a standard size of door that would be used on most developments.
19. Turning to the rear elevation of the proposal, this seeks the same materials as the front elevation and a similar window arrangement with Juliet style balconies at first and second floor level. Moreover, there is an example of a flat roof and the use of timber on the rear of the site on the BH that the development would seek to imitate. As a result, the rear elevation would have a visual interest in contrast to the blank gable walls of the BH and the fast food outlet that faces the proposed parking area.

20. With regard to the church, its listed structures and the scheduled monument, I acknowledge that the existing building at the site has historic links to the religious activities in the area. However, the development does not propose any works to the heritage assets in the vicinity and would be no closer to any of these structures and is separated from the church yard by existing landscaping that would be retained. Thus, the development would have a neutral effect on the setting of the heritage assets which includes the church, its listed structures and the scheduled monument.
21. Furthermore, although the Council raise concerns over the proposed parking area, it is served by an existing dropped kerb and I have not been provided with any evidence that should this appeal fail, vehicles could not park at the site. In addition, a suitably worded condition could ensure details are provided to ensure the area is secure and that suitable materials are used on its boundary.
22. Thus, the development would have an acceptable impact on the character and appearance of the area and would have a neutral effect on the setting of the designated heritage assets. It would not conflict with Policies 10 and 11 of the CS, policy BE10 of the LP and the Framework which seek, amongst other things, to ensure that developments make a positive contribution to the public realm does not affect the setting of a designated heritage asset.

Conclusion

23. I have found that the development would not have an unacceptable impact on the character and appearance of the area or the setting of designated heritage assets. However, I have found that the development would have an unacceptable impact on the living conditions of future occupiers and it has not been satisfactorily demonstrated that the development would not result in harm to the significance of the heritage asset by virtue of its impact on archaeological remains of a nationally important monument. Consequently, for the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Peter Johal	Appellant
Dr. Gareth Davis	Trent & Peak Archaeology
Richard Ling	Principal, Richard Ling & Associates Town Planning Consultants
Julian Owen	Architect to appellant

FOR THE LOCAL PLANNING AUTHORITY

Joanna Bates	Planning Officer Nottingham City Council (NCC)
Thomas Street	Conservation Officer NCC
Scott Lomax	City of Nottingham Archaeologist

INTERESTED PARTIES

Hilary Brindley	Nottingham City Civic Society
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DOCUMENTS

Statement of Common Ground
Trent & Peak Archaeology letter dated 10 June 2019
Site plan of Lenton Priory
Neighbour notification letter dated 4 June 2019