



Appeal Decision

Site visit made on 1 August 2019

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/A0665/W/19/3228698

3 Hunters Walk, Canal Street, Chester, Cheshire CH1 4EB

- 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 Vincent Fairclough against the decision of Cheshire West & Chester Council.
 - The application Ref 18/04922/FUL, dated 21 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is installation of new windows and doors.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have not included the full description of development from the appellant's planning application form as it makes reference to the proposal being retrospective and that is not in itself development. However, I was able to see on my site visit that, with the exception of one window, the development has taken place and therefore I have determined this appeal on that basis.
3. Since the Council refused planning permission the Council has adopted the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies 2019 (P2LP). As a result, the two Chester District Local Plan policies referred to in the Council's decision, ENV 37 and HO 8, are no longer in force. Policy ENV 37 has been replaced by Policy DM 46 of the P2LP. Policy HO 8 related to extensions to existing dwellings and therefore was not relevant to the appeal development.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the City Centre Conservation Area (CA).

Reasons

5. The site falls within the CA which includes much of the central area of Chester. The area surrounding the appeal property is characterised by a mixture of different uses with the predominant uses being commercial and residential. Buildings on Canal Street are of differing ages, scales and designs. Although the property is part of the relatively modern Hunters Walk development, it is of a scale and design which has integrated well with the other buildings in the area. With the exception of the windows that are the subject of this appeal, the

windows on the Hunters Walk development are uniform and consistent in terms of their design, method of opening and material. Overall, I consider that the Hunters Walk development makes a positive contribution to the CA.

6. The windows that are the subject of this appeal differ from those on the Hunters Walk development with respect to their material, the thickness of their frames and the depth of their cills. In addition, the new windows are top hung and open outwards, whereas the windows on the attached buildings open by sliding up and down. As a result of these differences, the windows are visually set apart from those on the rest of the Hunters Walk development and this has resulted in a jarring visual appearance when the buildings are viewed from both the Canal Street frontage and from the rear courtyard. I consider that this has caused harm to the character and appearance of the CA. Whilst the enlarged door that has been installed to the rear has a lesser visual impact due to its relatively limited size increase, it differs in size to those of the other adjoining properties. This too therefore disrupts the visual uniformity of the wider development and adds to the impact upon character and appearance.
7. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. As I have found harm to character and appearance as a result of this development, it follows that the development has neither preserved or enhanced the CA. Given the nature of the development and that the harm is localised, I consider that less than substantial harm to the CA has arisen.
8. As the development has resulted in less than substantial harm, it is necessary to weigh the public benefits of the proposal against the harm that has arisen to the CA. The appellant considers that increased noise insulation, enhanced thermal properties, security and the need to meet building regulations are all public benefits which weigh in favour of the development. In addition, the appellant states that the development is required to deliver three modern energy efficient apartments in a building that has been vacant for a prolonged period of time and that the windows needed replacing due to their age. However, I have not been presented with any substantive evidence to demonstrate that the same benefits could not be achieved with alternative windows that do not cause the same degree of harm as those subject of the appeal.
9. As such, the public benefits of the appeal scheme are of no more than limited weight. As a consequence, the public benefits arising from the development do not outweigh the harm that I have identified. This results in conflict with the National Planning Policy Framework because the harm to the CA does not have a clear and convincing justification and the Framework requires great weight to be given to the conservation of designated heritage assets.
10. I accept that there are a variety of materials evident on the windows and doors of buildings within the CA, including timber, aluminium and uPVC. During my site visit I viewed other properties in the vicinity, including the Home Dee property to which the appellant has directly referred. However, the appeal property is primarily read in conjunction with the buildings to which it is attached and which form the Hunters Walk development. Therefore, whilst the use of other materials is noted, these are not read within the direct context of

the appeal property and therefore their presence does not weigh in favour of the development.

11. The appellant considers that the impact of the development to the rear of the site is less than that to the front of the site, as there are fewer public vantage points. Whilst I accept that the elevated ring road which runs to the rear of the site is not likely to be a particularly attractive route for pedestrians, nonetheless there is a pedestrian walkway running alongside it and the site is visible from this walkway. Furthermore, the fact that the rear is less prominent than the front does not mean that the development to the rear of the site has not caused harm.
12. I note that the appellant considers that the CA covers a large area and that the window openings make no difference to the appearance of the building. However, these representations do not alter my conclusion that the development has caused harm on the basis I have set out above. I also note that letters of support for the development have been received, however these do not outweigh the harm that has been caused.
13. I conclude therefore that the development has caused harm to the character and appearance of the CA. Whilst this harm is less than substantial, the harm is not outweighed by public benefits arising from the development. The development is therefore contrary to the conservation objectives of Policy ENV 5 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies 2015 and Policies CH 5 and DM 46 of the P2LP, all of which seek to safeguard the character and appearance of the historic environment.

Conclusion

14. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR