



Appeal Decision

Site visit made on 15 October 2019

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6th November 2019

Appeal Ref: APP/P1750/W/19/3221707

Willow House, 23 Grosvenor Road, Aldershot, Hampshire GU11 1DL

- 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 ACE Liberty & Stone PLC against the decision of Rushmoor Borough Council.
 - The application Ref 18/00251/FULPP, dated 9 May 2018, was refused by notice dated 16 August 2018.
 - The development proposed is the demolition of the existing building and erection of a part 3, part 4 and part 5-storey building containing 23 flats and 2 retail units, with associated bin and cycle storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the refusal of planning permission the Council has adopted its new plan, the Rushmoor Local Plan 2014-2032 (LP). The policies in the LP supersede those in the former Rushmoor Core Strategy and former Local Plan Review, as set out in the Council's letter/appeal statement of 7 October 2019.
3. In its final comments the appellant submitted a S106 planning obligation by way of a unilateral undertaking dated 21 October 2019 (the UU) to provide for the payment of a strategic access management and monitoring (SAMM) contribution pursuant to the Council's adopted Thames Basin Heaths Special Protection Area (the SPA) Avoidance and Mitigation Supplementary Planning Document (TBHSPD), and an open space contribution prior to commencement of the development.
4. It also proposed addressing the provision of suitable alternative natural greenspace (SANG) pursuant to the SPD by a Grampian-style condition. The Council objected to this in a letter of 22 October 2019. The appellant was allowed a final response to the points made and did so in its email of 5 November 2019. I address the substance of these issues below.

Main Issues

5. The main issues are the effects of the proposed development on:
 - (a) the character and appearance of the area, including on the setting of the Grade II* listed Wesley Chambers and other Grade II listed buildings and on the Aldershot West conservation area and its setting;

- (b) the living conditions of residents of the adjoining property, St Katherine Court, regarding their light, outlook and sense of enclosure;
- (c) the living conditions of future residents of the proposed flats, regarding the room sizes of the units and their external amenity space;
- (d) parking and servicing of the site, in particular whether this would be satisfactory; and
- (e) the integrity of the SPA.

Reasons

Character and Appearance

6. The site occupies a prominent position at the junction of Grosvenor Road, Queens Road and Victoria Road on the edge of Aldershot town centre. The site frontage lies within the Aldershot West conservation area (CA) within which, on the opposite side of the road, is also a former Methodist church now occupied by health and community uses known as Wesley Chambers. The site contains a two-storey flat roofed vacant office building built in the early 1970s of little architectural merit. It has a small forecourt on Grosvenor Road and a small yard to the rear, access to which is via third party land from Victoria Road. There is no on-site car parking to serve the building. There is a difference in levels within the site with Grosvenor Road being at a higher level than Victoria Road.
7. St Katherine Court lies to the north of the site. This building comprises nine flats provided over six floors. It is of relatively recent construction, post 2010, and is completed in a white render finish. Abutting this to the east is a contemporaneous development of approximately the same height comprising ground floor retail units with flats above known as Whitley Court. On the diagonally opposite corner from the site are Nos 26, 28 and 30 Grosvenor Road, all late 19th century Grade II listed buildings (LBs), which also lie within the CA. On the opposite corner of Victoria Road (27 Grosvenor Road) is another similar aged LB within the CA.
8. Statute requires that special regard shall be paid to the desirability of preserving LBs or their settings and that with respect to any buildings or land within a CA special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.¹ Furthermore, policy and caselaw require the impact of development on the settings of CAs to be taken into account.
9. The proposed building appears to take its cue from the design of St Katherine Court and the adjoining modern development. There is no objection to such an approach in principle but its design in this respect is unsuccessful for several reasons. It would fail to incorporate enough variation or rhythm in its elevations; St Katherine and Whitley Courts incorporate set-backs and a rhythm within their elevations and have been designed to respect the individual nature of the 19th century terraced buildings on the opposite side of Grosvenor Road and generally within the immediate area. The proposed building, by contrast, has no such set-backs or elevational variation and would, I submit, appear bland and pedestrian by comparison.

¹ S66(1) & 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

10. The building's projecting brick piers would extend upwards to create a wide and high brick parapet behind which would be the inset top floor. To my mind this brick parapet appears too high compared to the eaves of St Katherine or Whitley Courts. The forward projection of the proposed block's brick piers is in stark contrast to the solid ground floor base of the Italianate LB on the opposite corner of Victoria Road and of the detailed gothic design of Wesley Chambers opposite. Whilst this may well be deliberate it simply appears that little consideration has been given in the building's design to the surrounding LBs within the CA.
11. Whereas St Katherine and Whitley Courts have attempted to create the impression of separate buildings with varied elevational treatments the proposed building would exhibit a monolithic and uninspiring appearance on this prominent corner. Contributing to this would be the treatment of the corner itself, which would comprise an inset glazed wall to the living rooms of the flats on the upper floors surmounted by a break in the brick plinth with railings. This would lend this important and prominent corner a weak and unresolved appearance, unlike the buildings on the other corners of this junction or the corner feature at Whitley Court.
12. For these reasons I conclude that the design of the proposed building is of insufficient quality and would fail to respect the character and appearance of the area. It would fail to respect the prominent corner settings of the LBs around it, as described above, and the character, appearance of the CA and its immediate setting.
13. It would fail to comply with LP Policies DE1a, HE1 and HE3 which together require development to be high quality and respect the character and appearance of the local area including the settings of LBs and CAs. It would fail to achieve high quality design, contrary to chapter 12 of the National Planning Policy Framework (NPPF).

Living Conditions – St Katherine Court

14. Part of the south elevation of St Katherine Court is recessed by about a metre from the common boundary. Tall obscure glazed stairwell windows face south towards the site. Small bedroom windows in the flats on the top three floors face each other east to west across this recess.
15. The appeal development would contain a lightwell measuring 4.4m by 6.3m adjacent to this recessed area at second floor level and above. The bulk and height of the surrounding new building would clearly have some affect on the light to all these windows and the outlook from and sense of enclosure to the bedroom windows, because beyond this lightwell the proposed building would rise up beyond the level of these windows.
16. The south facing flank windows of St Katherine Court were consented into a position where the lowest levels were very constrained against Willow House with the upper floors experiencing an unusually open outlook above Willow House but potentially fettering the future development of this site.
17. In such circumstances the BRE guide² suggests a contextual baseline assessment should be undertaken to assess the proposals against development following the design principles of St Katherine Court. The Council acknowledges

² BRE document 'Site layout planning for daylight and sunlight'

that the results of this assessment show an improvement to all windows when compared against this 'mirrored' baseline and the proposal therefore conforms with the design principles set out in the BRE guidance.

18. The redevelopment of the appeal site is necessary in the interests of the efficient use of urban land and because the site currently mars the character and appearance of the area and the settings of the nearby LBs. So, the essential question is whether the proposed lightwell is large enough to prevent significant impact on the living conditions of the flats in the upper three floors of St Katherine Court whose bedroom windows would face towards it.
19. The loss of light to all the windows (including the stairwell windows) would comply with the BRE guidance and so, by definition, would not be a significant loss. The outlook from the bedroom windows and sense of enclosure to them would undoubtedly be adversely affected. But they face each other across the inset recess and the current outlook from them above the flat roof of Willow House is an oblique one. These windows are small and narrow, and their size and location necessarily acknowledge the future redevelopment of the appeal site. They are bedroom rather than principal habitable room windows like those in living rooms or kitchen/dining rooms and hence are not as important to the overall living conditions of occupiers, who obviously use them principally for sleeping.
20. For these reasons I conclude that the living conditions of residents of Katherine Court, regarding their light, outlook and sense of enclosure, would not be significantly harmed. The proposed development would therefore comply with LP Policy DE1c which states that new development should not cause such harm including in terms of loss of light and outlook.

Living Conditions – Future Residents of the Proposed Flats

21. The Council argues that some of the flats fail to meet the minimum internal floor space standards set out in its LP Policy DE2. These standards mirror the government's nationally described space standards. The LP was only adopted in February 2019 and it must therefore be assumed that the adoption of the national space standards was fully justified during its examination.
22. Flats 2.2, 2.5, 3.2, 4.2 and 4.3 would be one-bedroom 2-person flats but would fail to meet the minimum net internal space standard of 50m², the first three by a minor amount; but the latter two by 6m² and 5m² respectively. Flats 2.6 and 4.1 would be two-bedroom 4-person flats but would fail to meet the minimum required standard of 70m² by 4.5m² and 5m² respectively. All the flats' bedrooms have or could accommodate wardrobe hanging space, but it is unclear whether all the flats meet the minimum standards for built-in storage space including for services or equipment such as boilers or hot water cylinders.
23. The appellant's noise assessment indicates that, given the location of the site adjacent to busy town centre streets, the proposed balconies of many of the flats would experience noise levels in excess of the upper guideline value of 55dB LAeq. I acknowledge this would be the case but consider this would be realistically inevitable if this site is to accommodate a development of residential flats with any meaningful external amenity space. The proposed balconies are a reasonable size – there is no indication from the Council that they breach the 5m² size required by LP Policy DE3. I also note that Whitley

Court has a large flat-roofed balcony/terrace at third floor level, which I was able to observe was being actively used by residents during my visit.

24. I conclude that the proposed external amenity space in the form of the proposed balconies would be acceptable. But, whilst acknowledging the constrained shape of the site, it is unclear to me why the proposed new flats could not and should not meet the minimum internal floor space standards in Policy DE2. Such standards are necessary to provide an acceptable quality of life for future residents of the proposed development. A minor diversion from the standards may be acceptable but a breach of them to the extent proposed would not be.

Parking and Servicing

25. The appellant states that it has a right of way over third-party land to the appeal site, as evidenced by its land registry title plan. I accept that this is the case. I also acknowledge that the site is capable of being serviced by an 18-tonne rigid vehicle and by a refuse vehicle both of which are capable of exiting the rear yard (known as Star Yard) in forward gear.
26. The proposed ground floor plan shows a substantial internal refuse storage area for the new building with a service door onto the alleyway between the end of the proposed building and No 192 Victoria Road. The planning permission for Star Yard granted on 8 November 2018 (18/00481/FULPP) shows an area of landscaping adjacent to the eastern wall of Willow House, which would appear to preclude the use of such a service door.
27. The appellant argues that this permission cannot frustrate its lawful rights of egress across the yard including its proposals to create access from the passageway to the proposed refuse area's service door or to store refuse bins in the area adjacent to the building. If that is not the case it is difficult to see how the proposed scheme can be effectively implemented. For these reasons I conclude that the servicing of the site, including by Council refuse vehicles, would be acceptable.
28. The Council argues that 31 residential parking spaces and 15-20 spaces are required for the ground floor commercial part of the development. The existing office building has no parking spaces. The site is located on the edge of the town centre within walking distance of all required and available shops and facilities including bus stops and Aldershot railway station. The Council maintains its position that there are no locations within the Borough that are so accessible that they would justify zero car ownership and provision.
29. Whilst I understand that residents and staff and customers of the retail units may well wish to use cars on a daily basis, I disagree that a proposed mixed-use development on this site should be required to conform to the vehicle parking standards in the Council's *Car and Cycle Parking Standards Supplementary Planning Document*. To insist on the rigid application of such standards in such an accessible location, in a Borough with a large amount of urban development, would run contrary to the approach set out in NPPF chapter 9. Proposed occupiers would be well aware that the development would not have any off-street parking, which would not be unusual in this location.
30. I note that the adoption of this SPD pre-dated the adoption of the LP. LP Policy IN2 states that development should seek to minimise the need to travel,

promote opportunities for sustainable transport modes, and improve accessibility to local facilities and linkages with the surrounding pedestrian and cycle network. It seems to me that there is a conflict with the requirement in sub-paragraph d of the Policy if 'adequate parking provision' infers a strict accordance with the SPD even in such accessible locations. In any case, given this accessibility, I consider that the lack of on-site car parking is not a reason to dismiss the appeal.

31. For these reasons I conclude that the parking and servicing of the site would be satisfactory and would comply with the thrust of Policy IN2 and its explanatory text, as well as with the NPPF.

Integrity of the SPA

32. The site is within 5km of the SPA. The SPA is designated for its breeding bird populations of Dartford Warbler, Nightjar and Wood Lark. Consequently, there is potential for impacts on these protected species through increased recreational pressure from the residents of the development and their pets, dogs in particular. If permission were being granted, it would be necessary for me to carry out an Appropriate Assessment (AA) under the Habitats Regulations to determine whether the proposal would compromise the integrity of the SPA.
33. The SAMM contribution that would be delivered prior to start of development via the UU and the provision of SANG land at the Queen Elizabeth Barracks site at Church Crookham, which is less than 5km from the site, via a suitable Grampian-style condition would be taken into account in any AA, as would Natural England's letter of 4 November 2019 that supports such measures in principle. However, as permission is not being granted, it is not necessary for me to conduct an AA in this case.

Other Matters

34. The Council appears to be objecting to the development on the grounds that the appellant has not updated its financial viability assessment of the proposed scheme and that it fails to provide 20% affordable housing provision in compliance with LP Policy LN2.
35. However, as the appellant makes clear, the Council's independent assessment by the District Valuer of the appellant's viability assessment concluded that the provision, on-site or otherwise, of any affordable housing would simply not be viable. In light of this it is clear that there is no breach of Policy LN2.
36. The UU also provides for an open spaces contribution of £44,600 prior to commencement of development towards the provision or improvement of relevant local open space necessitated by the occupiers of the flats in the proposed scheme, in compliance with LP Policy DE6.

Conclusion

37. Whilst I disagree with some of the Council's refusal reasons, for the reasons set out above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR