



Appeal Decisions

Site visit made on 13 January 2020

by Jonathan Hockley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2020

Appeal Ref: APP/G4620/W/19/3238893

Archibald Kenrick House, Hall Street South, West Bromwich B70 6BN

- 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 C Mahne, 1878 Property Ltd against the decision of Sandwell Metropolitan Borough Council.
- The application Ref DC/19/63021, dated 12 April 2019, was refused by notice dated 7 June 2019.
- The development proposed is mixed residential and commercial use comprising six residential flats in the northern half of the first and second floors, the southern half of the first and second floor to remain as office units. The ground floor of the building will comprise storage (B8) as existing. Internal alterations including new staircase.

Appeal Ref: APP/G4620/Y/19/3238909

Archibald Kenrick House, Hall Street South, West Bromwich B70 6BN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr C Mahne, 1878 Property Ltd against the decision of Sandwell Metropolitan Borough Council.
- The application Ref DC/19/63022, dated 12 April 2019, was refused by notice dated 7 June 2019.
- The works proposed are mixed residential and commercial use comprising six residential flats in the northern half of the first and second floors, the southern half of the first and second floor to remain as office units. The ground floor of the building will comprise storage (B8) as existing. Internal alterations including new staircase.

Decisions

1. Appeal A and Appeal B are dismissed.

Main Issue

2. The main issue in Appeal A is whether residential use would be suitable for the appeal site, having regard to the need for employment land and highway safety.
3. The main issue in Appeal B is whether the proposed works would preserve the special architectural or historic interest of the Grade II listed building.

Reasons

4. Archibald Kenrick House is a Grade II listed gothic building built in the 1880s. The three-storey property is built in red brick with dressings of stone and terracotta. Seven gables face on to Hall Street South, with a further three facing towards the M5 motorway. The ground floor facing Hall Street south is

an arcade of 14 impressive pointed arches, chamfered in three orders. The listing notes that these contain windows, aside from the 12th which contains a door; however, at the time of my visit all were boarded up. The second and fifth gables have segmental arched windows at first floor level, with the others having pointed heads with herring bone brickwork inset. The central third and fourth gables have protruding shafts separating paired windows, which culminate in cauliculus, under inset detailed multifoil. The seventh gable has one bay and is cut into by a clock tower. This has paired lancet openings under a pointed stone head with quatrefoil on west and south elevation. Clock faces are on both elevations set in stone gables with tracery. The spire above has lucarnes to all sides.

5. Overall the structure is a very detailed High Victorian building, and due to its size, mass, location, and siting is a landmark building which is prominent within the town and to thousands of motorists a day passing along the elevated section of the M5, which passes just to the south of the building. This siting and prominence adds to the special interest of the building, and the finely and highly detailed elevations of the building both add to this prominence and to the special interest of the heritage asset.
6. Internally various works have taken place to the structure over the years, so that little remains of what detail there may have once been. An attractive curved staircase remains towards the northern end of the building. The building is currently being used for storage in its ground floor and evidence notes the presence of unauthorised multiple occupation on upper floors.
7. The site lies within the Smethwick Galton Valley Conservation Area (SGVCA). The SGVCA is a linear industrial Conservation Area which borders a complex stretch of canal landscape and includes a number of important structures.

Employment

8. Policy EMP3 of the Black Country Core Strategy, 2011, (the Core Strategy) states that local quality employment areas will be safeguarded for the needs of locally based investment and will be safeguarded for various employment uses. The appeal site sits within a local quality employment area as designated by the West Bromwich Area Action Plan (2012).
9. Supporting text to the policy notes that local quality employment areas are prevalent in the Black Country and play an important role in providing a valuable source of low-cost accommodation which is vital in providing for local employment and a balanced portfolio of different sizes and quality of sites. This accords with what was visible on my site visit around the area; while there were some vacant sites, many were active and fulfilled a wide range of economic activities.
10. While the office unit aspect of the proposal may comply with this policy, the proposed residential use of the scheme would not safeguard employment land and would hence be contrary to policy EMP3.
11. The National Planning Policy Framework (the Framework) states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities, to allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. The Framework also

states that policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices and to enable a rapid response to changes in economic circumstances.

12. Planning Practice Guidance states that when considering whether there is a realistic prospect of an allocated site being developed for its intended use, it may be relevant to take into account factors such as the length of time since the site was allocated in the development plan, the planning history of the site including any planning applications or pre-application enquiries, whether there is evidence that the site has been actively marketed for its intended use for a reasonable period, and at a realistic price, and whether there are any changes of circumstance that mean that take-up of the site for its intended use is now unlikely.
13. A marketing report has been submitted by the appellant, which seeks to “set out the demand for office space use within this building in this location, for submission as a supporting document to a planning application for change of use from office to residential” (para 1.3). The report details that the building has not been occupied as offices since 2013 and has changed hands on at least three occasions since this date, with none of the owners being able to find a cost-effective use for the building. The report covers the period of instruction from the end of February 2018 until early January 2019 and notes that not one genuine enquiry for offices was received.
14. The marketing took the form of a website entry, listing with office accommodation brokers, mail shots, and a large banner on the building itself (which was still in place at the time of my visit). The author of the report considers that there is not the demand to attract enough occupiers to the property to justify a full-scale office refurbishment and notes that to attract tenants to areas outside the main commercial core in Birmingham requires a great deal of time, energy and luck.
15. The report does not cover a full calendar year and although is reasonably detailed, does not provide comprehensive details of marketing that took place; for instance, details of the office accommodation brokers, numbers of mailshots. The report’s author is of the view that given the overall context of the commercial office market, the lack of enquiries and demand that the most economic use of the building would be a conversion to residential accommodation. This however does not entirely fit with the proposal in this case, which is for a mixed-use scheme; the report seems to suggest that even with investment in such office units that they would be difficult to let in this location.

Highway safety

16. The curtilage of the appeal site is restricted, with limited external space at the northern and southern ends of the building. A parking plan provided indicates that this space could accommodate 14 cars, with storage proposed internally for 12 bikes. The Council consider that 35 off street parking spaces would be required for the development. No policy support for this number of spaces is cited by the Council, but I can appreciate that for 6 flats and office units in a building of this size 14 car parking spaces would be insufficient and would likely lead to an overflow of cars to surrounding streets, where this is possible.

17. At my site visit I noted public transport options nearby. Trinity Way metro/tram stop is a short walk away to the north and provides regular services to the town centre, Wolverhampton and Birmingham, while bus stops on Glover Street, a shorter walk to the north, provides hourly services to the town centre and Birmingham. A bus stop on Grice Street, a short walk to the west provides services to the town centre, Northfield, Bearwood, and the hospital.
18. The Framework states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes and that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. The site lies in a fairly sustainable location where potentially future residents and office workers could access a range of locations and centres via bus or metro.

Heritage

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that in considering whether to grant planning permission for development which affects a listed building or its setting the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
20. The Framework states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
21. Internal works from the proposal largely consist of a new staircase sited centrally on the eastern side of the building. Such works it is stated have been approved for previous office proposals and I agree that given previous operations which have been undertaken to the interior of the building such works would not cause harm to the heritage asset.
22. Externally it was clear from my visit that the building is not in the best condition; visible works have been undertaken to two gables which superficially do not appear to be of the highest quality, there are visible areas of roof line which appear to be degrading and Hall Street South is closed at its southern end due to concerns over the possibility of falling debris from the clock tower.
23. There is little analysis within the appeals over the scope of the extent of works which would be needed for the repair or on-going maintenance of the heritage asset, or clear evidence that any public benefit of the works to the listed building would be realised; the applicant states that it is anticipated that some £660,000 would be needed to repair the building and a similar amount to bring it back into use. However, it is not clear where these figures have come from. The marketing report provides a total figure of £640,000 for the refit of the building to modern standards for offices at first and second floor levels,

providing basic commercial space at ground floor level and 'repair and cosmetic work to the exterior' (costed at £75,000).

24. As above, it was clear from my visit that superficially some repair works would be needed to the external historic fabric, but also that some repair works had been undertaken. The works to the first and second gable, detailed in the Council's evidence, appeared unsympathetic and visually had caused harm to the building. Some of the visible roof lines also appeared in a fairly poor state of repair, both on the east and west sides. Without a detailed schedule it is difficult to define the extent of works required or the level of on-going maintenance which would be required after any such works were carried out.
25. Without such information it is difficult to find that, in accordance with the Act, the proposal would preserve the building or any external features of special architectural or historic interest it possesses. Likewise, it is also difficult to consider that the character of appearance of the SGVCA would be preserved by the proposals.

Planning Balance

26. The proposal would be contrary to policy EMP3 of the Core Strategy, which seeks to protect local employment areas. The marketing report, although useful does not cover a full years' worth of marketing and also appears to have been written on the basis of the whole building being converted to residential use, and therefore provides less guidance on the likely success or viability of the proposal in question as a mixed-use scheme. The residential element of the scheme would also be contrary to the Framework, in that it would not support economic growth and productivity, taking into account both local business needs and wider opportunities, to allow each area to build on its strengths.
27. In terms of highway safety the number of parking spaces available for the flats and offices would be substantially short of what would be expected for a scheme of this size, and would likely lead to overflow on surrounding roads. In this respect I note the evidence relating to single yellow lines on Hall Street South. Evidence on possibilities for overflow parking nearby is not substantial. However, I also note in this context that if the building were to be fully utilised as offices then similar issues would arise; no more space would be available for parking of staff or visitors than is the case in this instance. Given this and the fairly sustainable location of the site I therefore consider this matter to be neutral in the overall balance.
28. I have had regard to the Act. In the light of the lack of detail on the works required to the external fabric of the heritage asset I do not have sufficient evidence on the details of works required and likely costings and am not convinced that the proposal if allowed would provide funds to carry out such works. No mechanism is suggested to ensure that funding for and necessary works are carried out to the building and the evidence that has been presented to me, and was partially visible on my site visit of previous repairs, do not provide sufficient comfort that any revenue generated by the scheme would be invested into the structure of the listed building and hence I am not convinced that the proposal would result in a viable use for the building consistent with its conservation or that the proposed development would make a positive contribution to local character and distinctiveness.

29. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Archibald Kenrick House is clearly a landmark building for the town, and I agree that it is vital to secure an appropriate use for the building to ensure that it can be conserved in a manner appropriate to its significance, so it can be enjoyed for its contribution to the quality of life for existing and future generations. However, in this instance, based on the evidence submitted I am not convinced that material considerations exist sufficient to outweigh the conflict with the development plan that the proposal would present and I therefore conclude that, having regard to the Act and the Framework, residential use would not be suitable for the appeal site, having regard to the need for employment land.
30. In relation to Appeal B, for the same reasons as above, I do not consider that there is sufficient evidence or certainty of works required to the heritage asset or that the proposal would generate the required use to fund its repair and on-going maintenance. The Act requires myself to have special regard to the desirability of preserving the building and I am not convinced that the proposal would achieve this. I therefore conclude that the proposed works would not preserve the special architectural or historic interest of the Grade II listed building.
31. It is acknowledged by the Council that the Housing Delivery Test indicates that the delivery of housing in the Borough was substantially below the housing requirement over the previous three years. In such cases paragraph 11 of the Framework notes that permission should be granted for development proposals, unless policies in the Framework such as those relating to designated heritage assets provide a clear reason for refusing the development proposed. In my view the heritage policies within the Framework provide such a clear reason in this case.
32. My attention is drawn to reasonably recent appeal decisions made regarding two Grade II listed buildings in Bristol. However, each case must be considered on its own merits and I also note that the Bristol cases appeared to contain substantially more financial information including a Budget Cost Estimate.
33. I note the appellants' comments regarding their view on the intransigence of the Council and do not doubt that the appellant would wish to see the building restored. However, based on the evidence submitted, and for the reasons given above, and having regard to all other matters raised, I dismiss the appeals.

Jon Hockley

INSPECTOR