



Appeal Decision

Site visit made on 9 June 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2020

Appeal Ref: APP/J4423/W/19/3241075

Old Coroners Court Business Centre, 14-38 Nursery Street, Sheffield S3 8GG

- 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 Old Coroners Court Ltd against the decision of Sheffield City Council.
 - The application Ref: 19/02258/FUL, dated 28 May 2019, was refused by notice dated 10 October 2019.
 - The development proposed was originally described as "a mixed-use development comprising 74 apartments and 5 commercial units (A1/A2/A3/B1) with secure cycle storage & ancillary facilities and courtyard amenity space."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 5/6/7 storey mixed use building comprising commercial units A1/A2/A3/B1 use at ground floor and 77 residential apartments with associated amenity space including cycle/bin store at the Old Coroners Court Business Centre, 14-38 Nursery Street, Sheffield S3 8GG in accordance with the terms of the application, Ref: 19/02258/FUL, dated 28 May 2019, subject to the conditions in the attached schedule.

Procedural Matter

2. The description of development in the banner heading above is taken from the submitted planning application form. During the course of the application, the proposal was amended so that the number of apartments increased to 77. The associated revised description also included the height of the proposal by way of the number of storeys. I have considered the appeal on this basis and this is reflected in the description of development in my decision paragraph above.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located on a corner plot and contains a vacant 2 storey building that was historically used as the coroner's court. There are prominent gables on the Nursery Street frontage and imposing chimneys. Red brickwork and stone banding are utilised as the main external materials. Away from

Nursery Street, the site is enclosed by mainly high brick walls. The building shows considerable signs of disrepair and apart from the Nursery Street frontage, it is noticeably less visually pleasing. Nevertheless, it contributes favourably to its surroundings in overall terms.

5. The immediate surroundings still largely reflect the description of the character area that the site lies in under the Wicker Riverside Action Plan 2007-2017 (2007) (Action Plan). It is predominantly industrial in nature, with some offices, amongst other uses. There are varying types and ages of buildings. Some are of note, including the nearby art deco styled Oxo House and the converted Aizlewood's Mill. However, a number are also in poor external condition and in need of improvement.
6. The shared attributes of this character area include a grid street pattern with buildings largely filling their respective plots. There is a strong built frontage along Nursery Street which faces towards a small park, the River Don and modern large offices on the opposite side of the river. There is a predominance of red brickwork with stone detailing in a number of the buildings.
7. The proposal would adhere to a number of the main character elements of its surroundings. It would be built of red brick and it would reinforce the grid street pattern of development because it would have built frontages onto Nursery Street and the secondary streets to the side and rear. Whilst its height would not be insignificant compared to some of the smaller buildings in its vicinity, it would not be considerably higher than the nearby Oxo House and it would face buildings of similar height across the river.
8. The overall size, or bulk, of the proposed building would also reinforce the built frontage along Nursery Street and the associated 'run' of buildings. In terms of the detailing, in particular on the Nursery Street frontage, the glazed elements and the recessing of openings would result in the brickwork not being overly dominant. On the other frontages, a more utilitarian appearance would be in keeping with the industrial nature of development along these secondary streets. The building would also step down in height on these streets and appear subservient to the main frontage on Nursery Street, to avoid a monotonous or 'slab like' appearance.
9. When the design of the proposed building is considered in the round, it has been informed by the characteristics of its surroundings, rather than being generic, safe and unimaginative. It would clearly be prominent and be widely visible, but the same is true of other taller buildings in its vicinity. As it would be approached along Nursery Street, it would draw the eye but not in an uncomfortable fashion. It would assist in improving the overall physical environment of the area and its general vitality by bringing a site back into use. This contributes favourably towards the character and appearance of the area because it helps to ensure a sense of place and provide local distinctiveness.
10. With regard to the historical core of Sheffield, the site is somewhat removed from the buildings around Lady's Bridge and Castlegate due to the buildings in between and the road layout, even though the intervening distance is relatively short. I have limited information before me on why the site was proposed for inclusion in a conservation area and, as far as I have been made aware, this has not been advanced. Nevertheless, and for the reasons set out, I have

considered the relationship with the historic core and find the proposal would not be unacceptable.

11. The existing building on the site is of merit to the area, despite its state of repair. However, when taking the above considerations together, the proposal would be of sufficient high quality and takes adequate opportunities to improve the character of the area.
12. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As such, it would comply with Saved Policy BE5 of the Sheffield Unitary Development Plan (1998) which is concerned with good design and the use of good quality materials, and it would adhere to the design principles that this policy sets out. Similarly, it would also comply with Policy CS74 of the Sheffield Development Framework Core Strategy (2009) which concerns high quality design which would respect, take advantage of and enhance the distinctive features of the city, including townscape character, the distinctive heritage of the city, place-making and helping to transform the character of physical environments that have become run down and are lacking in distinctiveness.
13. It would also accord with paragraphs 8, 124, 127 and 130 of the National Planning Policy Framework (Framework) where it concerns protecting and enhancing the natural, built and historic environment; identifies that good design is a key aspect of sustainable development; states that developments are to add to the overall quality of the area, are visually attractive, sympathetic to local character and maintain a strong sense of place; and, that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area, amongst other considerations.

Other Matters

14. The existing building on the site is recognised as a townscape asset in the Action Plan and as a 'Significant Building' in the City Centre Urban Design Compendium (2004). It is not in dispute that it constitutes a non-designated heritage asset. The significance derives from that when the building was constructed, it integrated a number of coroner's court related functions into its use and layout. Whilst this use appears to have long since ceased, the building acts as a reminder to this historical significance. The physical fabric also contributes in this regard, albeit it has been altered and, as I have set out, it shows considerable signs of disrepair.
15. The proposal would result in the loss of what remains of the significance of the asset. However, the proposal affords the opportunity of bringing a previously developed site back into use and for what is a not inconsiderable amount of dwellings in relation to housing supply. It would also result in economic benefits during construction and when in use, and it is in a location that is highly accessible to local services. Furthermore, it would provide a clear regeneration benefit to the area, in my view.
16. I am also mindful that when the appellant proposed an alternative scheme that would have retained the existing building, the scale would have been considerably greater than the proposal before me, notwithstanding each scheme is to be considered on its own merits. I am less persuaded by the 'fallback' position that the appellant has put forward related to the approved

demolition of the building because there is not the compelling evidence which suggest this would occur prior to the redevelopment of the site. Nevertheless, I find that in the balanced judgement, the benefits that would arise from the proposal would outweigh the loss of the significance of the asset.

17. Whether or not the asset should receive further protection is not for my deliberations. I have to consider its current status, as a non-designated asset. In relation to other matters that have been raised, the application of the tilted balance under paragraph 11 of the Framework does not need to be considered because the proposal would accord with the development plan and so should therefore be approved.

Conditions

18. In addition to the timescale for implementation, I have imposed a condition concerning the approved plans of the proposal for the purposes of certainty. These include the plans that were before the Council at the time of its decision, excluding those that are indicative in nature.
19. I have also imposed conditions in the interests of satisfactory drainage and mitigating flood risk regarding surface water drainage arrangements, finished levels, flood resistance and resilience measures, and separate surface and foul water systems. Conditions are also imposed concerning decentralised and renewable or low carbon energy measures to mitigate the effect on climate change from the proposal, and investigative measures in respect of archaeological remains in the interests of protecting the historic environment.
20. In addition, a condition is applied to construction related matters in order to protect living conditions and for the general amenity of the area, as well as for highway safety and the free flow of traffic. A condition is also imposed in relation to contaminated land in the interests of protecting public health.
21. Conditions are also imposed by way of fume extraction, plant and machinery, in the interests of protecting living conditions. For similar reasons, a condition is applied with regard to noise levels and sound insulation. For reasons of highway safety and the free flow of traffic, including pedestrian safety, conditions are imposed to stop up redundant accesses and to provide for highway improvement works. I have also imposed a condition to implement the cycle parking as shown on the submitted site plan, in the interests of encouraging non-car modes of transport.
22. Conditions are also utilised concerning the accessibility of the building and, in the interests of protecting the character and appearance of the area, the external materials, architectural detailing and landscaping. I have also imposed conditions related to the opening hours of the commercial units to customers, waste related matters and amplified music, in the interests of protecting living conditions.
23. The Council also requested further conditions in respect of surface water disposal and calculations, validation testing for sound insulation and masonry details. I have not imposed these conditions as they are duplicating matters which can be submitted under other imposed conditions and so are not reasonable and necessary. I have also not imposed a condition concerning public art because I have no evidence that such a condition is justified with regard to the tests for the conditions that are set out in the Framework,

notwithstanding the reference to development plan policy in the Council's reason. Moreover, as I have set out above, I have found the proposal would not be unacceptable in character and appearance terms.

24. I have also not imposed a condition related to car free housing. The Planning Practice Guidance advises that using a condition to require an applicant to enter into a planning obligation or an agreement under other powers, in this case related to the Controlled Parking Zone, is unlikely to be appropriate in the majority of cases. Such exceptional circumstances related to particularly complex development schemes do not apply in this case.
25. Where I have altered the wording of the remainder of the conditions put forward by the Council, I have done so in the interests of precision and without changing their overall meaning. This also includes the amalgamation of a number of conditions which concern the same issue.
26. I have applied pre-commencement conditions in respect of surface water drainage details, decentralised and renewable or low carbon energy measures, archaeology, construction and land contamination. These are matters that need to be agreed prior to development commencing as they would likely have to be addressed before, or at the start of, the construction phase. Hence, there is a clear justification.

Conclusion

27. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 500 Rev B - Proposed Site Plan, 600 Rev B - Ground Floor, 601 Rev B - First & Second Floor, 602 Rev B - Third & Fourth floor, 603 Rev B - Fifth & Sixth Floor, 700 Rev C - Elevations (west and south), 701 Rev C - Elevations (north and east), 702 Rev C - Elevations (south east), 703 Rev C - Elevations (east courtyard and south courtyard) 704 Rev C - Elevations (west courtyard).
- 3) The development hereby permitted shall not commence until full details of the proposed surface water drainage design, including calculations and appropriate model results, have been submitted to and approved in writing by the Local Planning Authority. This shall include the arrangements and details for surface water infrastructure management for the life time of the development. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. No part of a phase shall be brought into use until the drainage works approved for that part have been completed and thereafter retained.
- 4) The development hereby permitted shall not commence until a report has been submitted to and approved in writing by the Local Planning Authority, identifying how a minimum of 10% of the predicted energy needs of the completed development will be obtained from decentralised and renewable or low carbon energy, or an alternative fabric first approach to offset an equivalent amount of energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources, or agreed measures to achieve the alternative fabric first approach, shall have been installed/incorporated before any part of the development is occupied, and a report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed/incorporated prior to occupation. Thereafter the agreed equipment, connection or measures shall be retained in use and retained for the lifetime of the development.
- 5) The development hereby permitted shall not commence until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The Written Scheme of Investigation shall include:
 - i) The programme and method of site investigation and recording;
 - ii) The requirement to seek preservation in situ of identified features of importance;
 - iii) The programme for post-investigation assessment;
 - iv) The provision to be made for analysis and reporting;

- v) The provision to be made for publication and dissemination of the results;
- vi) The provision to be made for deposition of the archive created;
- vii) Nomination of a competent person/persons or organisation to undertake the works; and
- viii) The timetable for completion of all site investigation and post investigation works.

Thereafter the development shall only take place in accordance with the approved Written Scheme of Investigation and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the Written Scheme of Investigation have been fulfilled.

- 6) The development hereby permitted shall not commence until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel and body vehicle washing facilities;
 - v) measures to control the emission of noise, vibration, dust, air quality, lighting and pollution control measures during construction;
 - vi) construction working hours;
 - vii) a consideration of site suitable piling techniques in terms of off-site impacts, where appropriate; and
 - viii) construction management and control proposals, together with a communications strategy for principal sensitive parties close to the site.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) The development hereby permitted shall not commence until the actual or potential land contamination and ground gas contamination at the site shall have been investigated and a Phase 1 Preliminary Risk Assessment Report shall have been submitted to and approved in writing by the Local Planning Authority. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004).

Any intrusive investigation recommended in the Phase I Preliminary Risk Assessment Report shall be carried out and be the subject of a Phase II Intrusive Site Investigation Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to construction works commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR 11 (Environment Agency 2004).

Any remediation works recommended in the Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to construction works commencing. The

Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Local Planning Authority policies relating to validation of capping measures and validation of gas protection measures.

All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works shall cease and the Local Planning Authority and Environmental Protection Service shall be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

- 8) Prior to the installation of any commercial kitchen fume extraction system, full details, including a scheme of works to protect the occupiers of adjacent dwellings from odour and noise, shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i) Drawings showing the location of the external flue ducting and termination, which shall include a low resistance cowl;
 - ii) Acoustic emissions data for the system;
 - iii) Details of any filters or other odour abatement equipment;
 - iv) Details of the system's required cleaning and maintenance schedule; and
 - v) Details of a scheme of works to prevent the transmission of structure borne noise or vibration to other sensitive portions of the building.The approved equipment shall then be installed, operated, retained and maintained in accordance with the approved details.
- 9) The residential accommodation hereby permitted shall not be occupied unless a scheme of sound insulation works has been installed and thereafter retained. Such a scheme of works shall:
 - i) Be based on the findings of the Blue Tree Acoustics Noise Assessment Report Ref: 02351-110201 (25/04/2019).
 - ii) Be capable of achieving the following noise levels:
 - Bedrooms: LAeq (8 hour) - 30dB (2300 to 0700 hours);

- Living Rooms & Bedrooms: LAeq (16 hour) - 35dB (0700 to 2300 hours); and
- Other Habitable Rooms: LAeq (16 hour) - 40dB (0700 to 2300 hours);
- Bedrooms: LAFmax - 45dB (2300 to 0700 hours).

iii) Where the above noise criteria cannot be achieved with windows partially open, a system of alternative acoustically treated ventilation shall be included to all habitable rooms.

Before the scheme of sound insulation works is installed, full details thereof shall first have been submitted to and approved in writing by the Local Planning Authority.

- 10) The development hereby permitted shall not be brought into use until all redundant accesses have been permanently stopped up and reinstated to kerb and footway.
- 11) No above ground works shall commence until the highways improvements (which expression shall include traffic control, pedestrian and cycle safety measures) listed below have either:
 - i) been carried out; or
 - ii) details have been submitted to and approved in writing by the Local Planning Authority of arrangements which have been entered into which will secure that such improvement works will be carried out before the development is brought into use and the development shall not be brought into use until the highway improvements listed below have been carried out:
 - Nursery Street - resurfacing of footways in accordance with Sheffield Urban Design Compendium;
 - Wicker Lane - resurfacing of footways in accordance with Sheffield Urban Design Compendium;
 - Nursery Lane - resurfacing of footways in accordance with Sheffield Urban Design Compendium;
 - Nursery Street - review and amendment of Traffic Regulation Order(s) to provide a dedicated loading bay and replacement parking space as appropriate.
- 12) The residential accommodation hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. 600 Rev B – Ground Floor for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 13) All entrances shall provide level access and entrance doors shall have a minimum clear opening width of 1000mm.
- 14) No above ground works shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The landscaping works shall be carried out in accordance with the approved details before any part of the development hereby permitted is brought into use. Any trees or plants which within a period of 5 years from the completion of the development hereby permitted die, are removed or become seriously damaged or diseased

shall be replaced in the next planting season with others of similar size and species.

- 15) Details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority before that part of the development commences. The development shall be carried out in accordance with the approved details / samples.
- 16) Details of the design of the following features, including materials and finishes, at a minimum scale of 1:20 shall be submitted to and approved in writing by the local planning authority before that part of the development commences.

- i) glazing;
- ii) window reveals;
- iii) brickwork detailing around windows and openings;
- iv) brickwork panel detailing;
- v) shop fronts;
- vi) entrance door fronting Wicker Lane;
- vii) glazed lobby area;
- viii) verges;
- ix) parapets;
- x) soffit; and
- xi) vertical channels.

The development shall be carried out in accordance with the approved details.

- 17) No above ground works shall commence until full details of the finished levels above Ordnance Datum have been submitted to and approved in writing by the Local Planning Authority. These shall include commercial finished floor levels set no lower than 46.74 metres above Ordnance Datum and residential finished floor levels set no lower than 51.79 metres above Ordnance Datum. The development shall be carried out in accordance with the approved levels.
- 18) Flood resistance and resilience measures shall be incorporated into the development in accordance with section 2.4 of the amended Flood Risk assessment produced by Eastwood and Partners, ref 43916-001 issue 2, dated 15th August 2019 and shall thereafter be retained.
- 19) Customers shall only be permitted on the commercial premises between the hours of 0700 to 2300 hours Mondays to Saturdays and 0900 to 2300 hours on Sundays and Bank and Public Holidays.
- 20) No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the development hereby permitted unless full details thereof, including acoustic emissions data sufficient to demonstrate compliance with the recommendations of approved Blue Tree Acoustics Noise Assessment Report ref. 02351-110201 (25/04/2019), have first been submitted to and approved in writing by

the Local Planning Authority. Such plant or equipment shall be installed in accordance with the approved details and shall thereafter be retained.

- 21) Movement, sorting or removal of waste materials, recyclables or their containers in the open air and associated with the commercial premises hereby permitted shall be carried out only between the hours of 0700 to 2300 Mondays to Saturdays and the hours of 0900 to 2300 on Sundays and Bank and Public Holidays.
- 22) No amplified sound or live music shall be played within the commercial premises hereby permitted at above background levels, nor shall loudspeakers be fixed externally nor directed to broadcast sound outside the building at any time. The specification, location and mountings of any loudspeakers affixed internally to the commercial premises within the building shall be subject to written approval by the Local Planning Authority prior to installation that shall take place in accordance with the approved details and thereafter be retained.
- 23) Surface water and foul drainage shall drain to separate systems.