



Appeal Decision

Site visit made on 18 January 2021

by Alison Partington BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2021

Appeal Ref: APP/R0660/W/20/3260958

2 Brook Street, Macclesfield, SK11 7AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Bailey (Bailey Property Management Limited) against the decision of Cheshire East Council.
 - The application Ref 20/2265M, dated 3 June 2020, was refused by notice dated 9 September 2020.
 - The development proposed is to infill the 1st floor and convert from commercial to residential. Extend another floor (2nd floor) to match and extend with a 3rd floor (contemporary design) set back from the building elevations, all to create 14 No one and two bed self contained apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with access, appearance, layout and scale to be determined at this stage and landscaping reserved for future consideration. I have determined the appeal on this basis.

Main Issues

3. The main issues in the appeal are:
 - the effect of the proposed development on the setting of Park Green Conservation Area;
 - the effect of the proposed development on the living conditions of nearby residents with particular regard to outlook; and
 - whether or not the proposed residential units would be safe from flooding.

Reasons

Setting of the conservation area

4. The appeal site is occupied by a part single storey, part 2 storey building. The plot is surrounded on all sides by roads which makes the whole building visible, particularly as the uses immediately to the north and west are relatively open. Commercial uses currently occupy the ground floor, with the upper floor being vacant. The site is located on the edge of the town centre and the surrounding area contains a variety of commercial uses as well as some residential units. Two, three and four storey buildings of varying heights are evident in the area. The Park Green Conservation Area is located to the south and west of the site.

5. The Council consider that the current building is an undesignated heritage asset. The first floor in particular has some attractive architectural detailing. However, the "missing" north east corner, external metal access stairs and poor state of the sash windows detract from its appearance and overall, I consider it currently has a neutral impact on the setting of the conservation area. The proposal would extend the current first floor to "complete" the building at this level, would repair the sash windows, would reinstate the original mural on the Brook Street elevation and would remove the current external access stairs. These would all improve the appearance of the building.
6. The proposed second floor would reflect the design, fenestration and materials of the building. However, the third floor, which would be set back from all sides of the building would have a contemporary design. The set back would restrict views of this level, particularly from the immediate street level, nonetheless it would be visible in views along both Sunderland Street and Brook Street. However, the views into and out of the conservation areas along these streets, are ones of the general townscape. They Council have not indicated that they provide views of any notable or key buildings in the conservation area and so they do not appear to be key views.
7. The increase in height of the building would make it more prominent in views but as the footprint of the building is unaltered it would not obstruct views along the roads. Given the wide variety in the scale and mass of buildings in the area, and the frequent juxtaposition of smaller buildings next to taller ones, the height of the resulting building would not make it appear out of place or overly dominant in the street scene. Whilst the Council suggest the 4 storey buildings in the area are all former mills, I observed that Throwster Court and the medical centre on Sunderland Street were both 4 storey buildings that are not former mills. Moreover, some of the 3 storey buildings that were also not former mills are not dissimilar in height to many 4 storey buildings.
8. Within the wider area there are a number of other taller buildings where the top floor is set back in relation to the rest of the building, has a different design and utilises different materials. As such, the proposed contemporary designed top floor would not be an incongruous feature. Whilst the other buildings where this occurs are modern buildings, the materials proposed on the top floor of the appeal scheme would reflect and would be sympathetic to materials used in the area. The contemporary design of this floor would be read as a modern addition and would, in my opinion, sit comfortably alongside the more traditional design of the rest of the building. It would also add interest and variety to the street scene.
9. All in all, I consider the appeal scheme would enhance and improve the appearance of the current building. Consequently, I consider the proposal would not have any adverse impact on, and would preserve, the setting of Park Green Conservation Area. Therefore, the proposal would not be contrary to Policy SE7 of the *Cheshire East Local Plan Strategy (adopted July 2017)* (CELPs) which seeks to ensure proposals avoid harm to heritage assets and make a positive contribution to the historic and built environment. Nor would there be any conflict with section 16 of the *National Planning Policy Framework* (the Framework) which also seeks to ensure the conservation and enhancement of the historic environment.

Living Conditions

10. On the other side of Brook Street is a terrace that includes a mixture of commercial and residential properties. Two houses, which have habitable room windows on both the ground and first floor directly face the appeal property. Both the appeal property and the terrace directly abut the pavement so the distance between them is only 10m. This falls significantly below the 21m separation distance required between two storey buildings by Policy DC38 of the *Macclesfield Borough Local Plan (adopted January 2004)* (MBLP). The policy requires a further 7m separation distance for each additional storey.
11. Whilst the appeal building is currently 2 storey in height, it is already significantly taller than the terrace opposite. As such, it already dominates the outlook from windows on the front elevations of the houses opposite. The appeal scheme would clearly increase the height of the building, although as the top storey would be set back some distance from the Brook Street elevation this would minimise its impact. As the outlook of these houses is already dominated by the appeal building, I consider that the additional height would not result in any significant worsening in the outlook of these properties. In addition, as the appeal building is situated to the north of these houses, the proposal would not create any additional overshadowing.
12. Therefore, although the proposal would not accord with the guidelines set out in Policy DC38 of the MBLP, there are material considerations that outweigh this conflict. Overall, I consider that the proposal would not unacceptably harm the living conditions of nearby residents and it would not be contrary to Policy SD2 of the CELPS or Policy DC3 of the MBLP which seek to ensure that developments do not significantly injure the amenities of nearby residents.

Flooding

13. The appeal site lies in Flood Zone 2 which has a medium risk of flooding and the scheme is classified as a 'more vulnerable' development. The Framework and the *Planning Practice Guidance* (PPG) set out strict tests to protect people and property from flooding. The aim of these being to avoid inappropriate development in areas at risk of flooding by directing development away from areas of highest risk. Similar advice and tests are set out in Policy SE13 of the CELPS.
14. The PPG requires that a Flood Risk assessment is carried out for developments within Flood Zone 2. In addition, the Framework (paragraph 158) indicates that a sequential test should be carried out the aim of which is to steer new development to areas with the lowest probability of flooding, and that development should not be allowed if there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding. Whilst the proposal is partially for a change of use of part of an existing building it also includes a significant element of new development so I consider that it is not covered by paragraph 164 of the Framework and a sequential test and, if necessary, an exception test is required. The application was not accompanied by any of the information required by national guidance.
15. I appreciate that the apartments will all be located on the upper floors which is the least vulnerable part of the building. However, paragraph 163 e) of the Framework specifically requires that developments demonstrate that safe access and escape routes are included as part of an agreed emergency plan.

The appellant has suggested that this could be dealt with by way of a condition. However, in the absence of any information regarding flooding I am unsure whether a safe access and escape route would be able to be provided. Therefore, I am not persuaded that this is a matter that can be left to deal with in a condition.

16. I understand that permission already exists to enable the extension and conversion of the first floor to residential and that the Council did not require a Flood Risk Assessment to be provided when determining that application¹. Be that as it may, the appeal scheme involves a much greater extension to the building and creates a much larger number of residential units. As such, I consider that the previous application does not set a precedent for how this application should be determined.
17. Therefore, without the information required by the Framework I am not satisfied that the proposed residential units would be safe from flooding. Accordingly, the proposal would conflict with Policy SE13 of the CELPS and the Framework as outlined above.

Other matters

18. The appeal scheme would create 14 1 and 2 bedroom apartments and so would make a small contribution to housing supply in the area. It is suggested by the appellant that a shortage of housing can act as a barrier to people being able to access job opportunities. However, the Council has stated that they can demonstrate a 5 year housing land supply and this has not been disputed by the appellant. In addition, there is no evidence to suggest that there is a particular shortfall in, or demand for, smaller apartments, either generally in the borough, or more locally. Thus, I only give limited weight to this benefit.
19. Both through the construction phase and through the spending of future occupiers, the development would bring some benefits to the local economy. The proposal would make efficient use of a brownfield site and has good accessibility to public transport and all the services and facilities in Macclesfield town centre. These are matters that weigh in favour of the scheme and to which I give significant weight. The appellant has also suggested that the proposal would contribute to Council Tax revenue but as Section 70 of the Town and Country Planning Act 1990 does not refer to this as "local finance considerations", I give very little weight to this.
20. The proposal would bring the vacant upper floor of the building back into use which I understand is an aim of the regeneration area in which it is located. In addition, by increasing activity in the area and by increasing the opportunities for passive surveillance it would have the potential to reduce both crime, and the fear of crime, in the area. However, these benefits would also be achieved through the existing permission to convert the first floor to 4 apartments. As a result, I only give these benefits limited weight.

Planning Balance and Conclusion

21. The proposal would provide 14 new residential units in an accessible location. It would support the regeneration of the area, improve the appearance of the buildings and would bring some benefits to the local economy. It would preserve the setting of the adjacent conservation area and would not

¹ Application Reference 19/1918M

unacceptably harm the living conditions of nearby residents. However, an absence of harm in these matters is a neutral factor. Nevertheless, in the absence of information to the contrary, I am not satisfied that the proposed development would be safe from flooding. Whilst I have given weight to the benefits of the proposal, I consider that they would not outweigh the harm caused by this.

22. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR