
Appeal Decision

Hearing Held on 8 February 2021

Site visit made on 11 February 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 March 2021

Appeal Ref: APP/F3545/W/19/3243763

**Cornhill Walk Shopping Centre, Brentgovel Street, Bury St Edmunds
IP33 1BE**

- 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 Peter Murphy on behalf of Knightspur Homes against the decision of West Suffolk Council.
 - The application Ref DC/18/0382/FUL, dated 23 February 2018, was refused by notice dated 11 September 2019.
 - The development proposed is described as 'demolition and redevelopment of the Cornhill Walk Shopping Centre to provide mixed use development, comprising 1,561 sq.m (Use Classes A1/D2) at the ground floor and construction of 48 residential units (Use Class C3) to three upper floors, including parking, bin storage, access and other associated works as amended by plans received 13 December 2018, 27 March 2019 and 5 July 2019'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application of costs has been lodged by the appellant against the Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council has been subject to local government reorganisation. The banner heading refers to this change. Parties agreed that this does not have a bearing upon the determination of this appeal.
4. The original description of development was revised to reflect amendments that were made to the proposed scheme and is reflected in the banner heading above.
5. The date of the planning application contained within the banner heading above is the date cited by the appellant on the planning application form.
6. At the hearing, main parties referred to 2 no. submitted plans (ref 1400 REV D and 1110 REV H). Although these had been the subject of public consultation and had formed part of the Council's decision, they had been omitted from the decision notice in error. Interested parties confirmed that was also their

understanding. Consequently, my examination of the appeal proposal extends to these plans.

7. The Council confirmed that the submitted planning obligation would overcome their second reason for refusal. During the hearing, the main parties drew my attention to an error in this regarding a sum that would be payable. I agreed that a revised signed planning obligation could be submitted shortly after the close of the hearing to remedy this, as it was evident that no parties' interests would be prejudiced. This has subsequently been addressed to the satisfaction of the Council. Therefore, I have confined my examination of this appeal scheme to the remaining matters in dispute.
8. All parties were in agreement that neither the recently published results for the Housing Delivery Test or the recent changes to the Town and Country Planning (Use Classes) Order (1987) had any implications for this appeal. There is no cause for me to disagree with those views and my examination of the appeal proposal proceeds on that basis.

Main Issues

9. Therefore, the main issues are the effect of the appeal proposal on:
 - the living conditions of occupiers of neighbouring homes, with particular regard to levels of privacy and outlook; and
 - the character and appearance of the Bury St Edmunds Town Centre Conservation Area and the setting of nearby Listed Buildings, with particular regard to height, size and mass.

Reasons

Living conditions

10. A substantial part of the appeal site's boundary interfaces with the predominantly residential streets of Well Street and Short Brackland.
11. In terms of existing privacy levels, the fronts of residential properties in these streets have little physical separation with the public highway and their existing privacy levels are more limited at ground floor level. However, the rear rooms and outdoor space of these properties enjoy high levels of privacy. This is because of their respective domestic scale, height of existing boundary enclosures, level of separation and juxtaposition with one another.
12. Furthermore, the absence of any windows in the northern elevation of the Cornhill Walk Shopping Centre and the limited number of door and window openings in its elevations facing onto residencies in Well Street and Short Brackland has meant that existing privacy levels are not compromised and there is no sense of being overlooked.
13. In terms of existing levels of outlook, residential properties on the western side of Well Street, in particularly Nos 8 and 9, are afforded views onto a substantial part of the northern elevation of the existing shopping centre building. Its mass is mitigated by the varied roof design, the eaves and ridge heights and simplicity of this elevation given the absence of window openings. Therefore, the current outlook of these properties is only modestly compromised by the presence of the existing building.

14. The current separation distances between the existing shopping centre and Nos 36-43, Well Street (inclusive) are not dissimilar to those of other properties further up Well Street. Here, the appearance of the existing shopping centre reflects the domestic scale of the existing dwellings on either side of this street. The existing roof design of this elevation successfully breaks up the mass of the existing building by virtue of the varied shape, heights, ratio of walling to roofing materials and direction of roof slopes. For these reasons, the existing outlook for those facing dwellings is not unduly impeded by the presence of the existing building's mass.
15. The proposed building would face directly onto existing dwellings in Well Street, in particularly Nos 36-43 (inclusive) and across the rear gardens and rear elevations of Nos 8 and 9. There are no adopted standards that would specify appropriate separation distances in this instance.
16. In terms of the resulting privacy levels, a significant number of window openings would be incorporated within each of the proposed elevations. Many of these would be of an elevated height. Given their positioning relative to neighbouring dwellings in Well Street and substantial number, the proposed fenestration would afford the potential for direct overlooking and impose an undue sense of surveillance both across and down into the fronts of Nos 36-43 (inclusive) and also the rear windows and outdoor space of Nos 8 and 9. The roof terrace proposed at third floor level would afford further potential for elevated views directly down onto Nos 36-43.
17. The resulting arrangement would be significantly more harmful than that which currently exists with the appeal site. Furthermore, it would not reflect that which exists between other properties in Well Street. This is because those existing relationships are of a more equivalent scale which avoid significant levels of overlooking from more elevated vantage points.
18. The appeal proposal would diminish privacy levels to an unacceptable degree for occupants of Nos 8 and 9 and 36-43 (inclusive). The appellant's attempts to reduce the potential for overlooking through the treatment of windows and glazing would not adequately reduce the undue sense of surveillance that would arise for occupants of those existing dwellings.
19. In terms of the resulting outlook for occupants of these existing dwellings, the overall height of the appeal proposal would not exceed the highest part of the roof of the existing building. Nonetheless, there would be a marked increase in eaves height coupled with a greater ratio of visible wall surface to roof plane. This, coupled with the insertion of windows, would emphasise the inequivalent scale of the appeal proposal to these neighbouring dwellings.
20. The resulting scale and mass proposed relative to separation distances would mean that the building occupying the appeal site would no longer comfortably co-exist with those neighbouring dwellings on Well Street. It would have a much greater presence by virtue of its scale, mass and design which would have an unacceptable overbearing impact upon the occupants of Nos 8 and 9 and Nos 36-43 (inclusive).
21. The impacts on existing levels of privacy and outlook have not been compensated for by any meaningful increase in separation distances between the existing buildings and the appeal proposal. These impacts could not be satisfactorily addressed through the imposition of planning conditions.

22. Having examined the submission put before them, the committee members were entitled to arrive at a different decision to that which was recommended to them by the case officer.
23. Overall, it is concluded that the appeal proposal would impose unacceptable harm on the living conditions of occupiers of neighbouring homes, with particular regard to levels of privacy and outlook.
24. Policy DM2 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) (the JDMPD) states proposals should not adversely affect residential amenities of adjacent areas.
25. In view of the identified harm, the appeal proposal would conflict with this policy. Given the nature and level of harm, significant weight is afforded to this.

Heritage

26. Being located right on the edge of the defined shopping area, the appeal site represents an important transition between its commercial uses and the adjoining residential area. The appeal site is located within the Bury St Edmunds Town Centre Conservation Area. It is also surrounded by a number of Listed Buildings on Brentgovel Street, Well Street and Cornhill.
27. The character of the appeal site's important historic context is varied in terms of roof designs and architectural detailing. Consistency exists in terms of the palette of local materials, plot widths, Georgian influences and the scale of buildings relative to the clear hierarchy and pattern of streets.
28. The significance of this Conservation Area and the Listed Buildings within it that bound the site are both historically and architecturally derived.
29. The existing Cornhill Walk Shopping Centre is a relatively recent addition to the area. Its contemporary design successfully reflects the transition between buildings in the commercial core and the surrounding residential area in terms of its scale, massing and varied roof design.
30. There are elements of the design of the existing shopping centre building that parties agreed are not so sympathetic to its heritage context. Nonetheless, the elevations that front onto Well Street and Short Brackland whilst expansive, are largely devoid of any window and door features and are broken up in a manner that does not compete with the fine historic fabric and varied character of its heritage context. On balance, the existing shopping centre building makes a neutral contribution to its historic context.
31. The appeal site's existing main frontage sits at an important juncture between Brentgovel Street and Cornhill. The glimpses of the appeal site from Cornhill and Butter Market would continue to form an important backdrop for the Grade I listed Moyse's Hall. The design credentials of that part of the appeal proposal would have an acceptable relationship with that designated heritage asset, the other properties on Cornhill and Butter Market that would frame it and also the wider Conservation Area.
32. Although Brentgovel Street is a secondary route, the width of the proposed building frontage here would be broken up in a manner that would not be

jarring with the pattern of the existing street scene. The proposed building height and degree of prominence within the street scene would not be too dissimilar from the existing building when viewed from street level. This would reinforce the sense of enclosure that is characteristic of this street. The Georgian design principals would also be an appropriate nod to the architecture which typifies the site's context.

33. However, upon its return along Well Street, the scale of the appeal proposal would not be sympathetic to the lesser domestic scale and height of the listed terraced properties there. Although a staggered building line would be retained, the more imposing scale of this elevation would be further exacerbated by the insertion of windows above ground floor level.
34. Moreover, the transitioning of both the eastern and western elevations of the northern section of the proposed building would insufficiently reflect the domestic Georgian character and appearance of either Well Street or Short Brackland in terms of scale and design. By virtue of the increase in walling and the design, number and placement of windows, the contemporary design solution advanced for that section of the appeal proposal would be monolithic in effect.
35. That design treatment would unduly interrupt the important character of these streets and eliminate the existing successful transitioning role of the appeal site. Although the removal of the existing tower feature would reduce the bulk of built mass at that part of Well Street, it would not compensate for the identified harm. As a consequence, notwithstanding some positive design elements of the scheme, the appeal proposal would not sufficiently and successfully assimilate with its important heritage rich surroundings.
36. For these reasons, the appeal proposal would result in less than substantial harm to the significance of the Bury St Edmunds Town Centre Conservation Area and also to the setting of neighbouring Listed Buildings on Well Street.
37. In the context of paragraph 196 of the National Planning Policy Framework (the Framework) it has been evidenced that the appeal proposal would result in the re-use of a vacant previously developed site within the town centre. This would weigh moderately in favour of the appeal proposal as a public benefit.
38. As well as providing modern commercial space, for which occupancy has been secured, the appeal proposal would contribute to the existing housing stock quantitatively and also in terms of type and mix. These uses would not conflict with Policy BV2 of the Bury St Edmunds Vision 2031 (the Vision), Policy CS5 of the St Edmundsbury Core Strategy (the Core Strategy) or Policy DM25 of the JDMPD and would constitute public benefits. However, as no substantive up to date evidence has been submitted that would demonstrate a shortfall in the supply of either of these types of units, only limited weight should be afforded to each.
39. No other public benefits have been advanced through this appeal. Furthermore, paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The harm to the significance of these designated

heritage assets would not be outweighed by the public benefits that have been advanced. This would weigh significantly against the appeal proposal.

40. For the reasons given, the appeal proposal would impose harm on the character and appearance of the Bury St Edmunds Town Centre Conservation Area and the setting of nearby Listed Buildings, with particular regard to height, size and mass.
41. Policy CS2 of the Core Strategy sets out criteria for sustainable design which includes amongst other things conserving and enhancing the historic environment. Policy CS3 of that plan requires that new development protects the historic environment. Policy DM2 of the JDMPD states that development should maintain or create a sense of place or local character and not adversely affect the distinctive historic character of the area. Policy DM22 of the JDMPD sets out the means by which all residential development should maintain or create a sense of place or character.
42. Policy BV25 of the Vision states that the Council will seek to preserve the townscape setting of this Conservation Area. Policy DM15 of the JDMPD states that development affecting the setting of a Listed Building will be permitted where it is appropriate in scale, form, height and design to its setting. Policy DM17 of the JDMPD states that development within a Conservation Area should preserve or enhance its character or appearance and be of an appropriate scale, form, height, massing and design detailing which respects the area's character. Harm to the significance of a Conservation Area should be weighed against any public benefits.
43. In view of my findings, the appeal proposal would conflict with these policies. Significant weight is afforded to this.
44. The appeal proposal would not preserve or enhance the character and appearance of this Conservation Area. Furthermore, the appeal proposal would not preserve the setting of the Listed Buildings on Well Street. These would be contrary to the requirements of section 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

45. Unacceptable harm would be imposed on the living conditions of occupants of existing dwellings and would present conflict with the development plan, to which significant weight is attributed. Less than substantial harm would be imposed on designated heritage assets and their setting. The public benefits that would arise from the appeal proposal would not out-weigh the identified harm to these important heritage assets. This would present conflict with the development plan, to which significant weight is attributed.
46. No matters have been advanced that would out-weigh the identified conflicts with the development plan when taken as a whole. For the reasons given, the appeal should be dismissed.

C Dillon

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Kieran Rushe BA MA MRTPI	Director, Stantec Associates
Mr Shawn Lambert Chartered Architect	Director, PWP Architects
Mrs Emma Baxter BA MSc IHBF	Principal Heritage Consultant, Orion

FOR THE COUNCIL:

Miss Britta Heidecke MSc	Senior Planning Officer
Ms Olivia Luckhurst	Planning Officer
Ms Eloise Limmer BA MA IHBF	Heritage Officer
Mr Neil McManus MRICS	Development Contributions Manager

INTERESTED PARTIES:

Mr John Dagg Barrister BSc Bachelor of Law MA MRTPI	On behalf of the Bury Society and Well Street Residents Association
Mr William Goodsall	Bury Society
Mr Martyn Taylor	Bury Society
Cllr Waterman	Bury St Edmunds Town Council
Mr Paul Scarlett BA Dip MA	Local resident.
Mr Peter Gaskin	Local resident.
Ms Rachel Churcher	Local resident
Foundation Degree Architectural Technology.	

Documents submitted during the Hearing

1. Appellant, resubmission of application for costs.
2. Main parties, Plan Ref 1400 REV D and 1110 REV H.
3. Appellant, Unilateral Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990 signed 12 February 2021, relating to Cornhill Walk Shopping Centre, Brentgovel Street, Bury St Edmunds IP33 1BE.
4. Council, Bury St Edmunds Town Centre Master Plan.
5. Council, Bury St Edmunds Town Centre Conservation Area Conservation Area Appraisal.