
Appeal Decision

Site visit made on 1 September 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/J2210/W/20/3256681

68 Old Dover Road, Canterbury, CT1 3DF

- 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 Cityscape Ltd against the decision of Canterbury City Council.
 - The application Ref. CA/19/00316 dated 14 February 2019, was refused by notice dated 11 February 2020.
 - The development proposed is part two-storey, part three-storey building with the basement, comprising 37 student apartments (including warden's accommodation) with communal facilities including cycle and refuse storage, amenity areas and three 'operational', parking spaces for service/maintenance vehicles, following demolition of the existing dwelling and a garage.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Cityscape Ltd against Canterbury City Council. This application is the subject of a separate Decision.

Preliminary matters

3. The description of the development, as given in the heading above, was an amendment, agreed by both parties, due to the change in design and unit numbers, following various consultations during the application process. As a result, a significant number of consultation responses relate to earlier iterations of the scheme and the weight to be given to them is consequently reduced to a considerable extent. As shown in the final part of the description of the proposed development, the application includes the demolition of an unlisted building in a conservation area.
4. On 20 November 2020 the council sent an email to the Planning Inspectorate stating that, subsequent to the appeal being submitted and statement of case completed, advice had been received from Natural England (NE) concerning the Stodmarsh Nature Reserve. This is protected under European Law and is managed by NE. In a formal advice note, NE has identified that the water quality in the lakes there has deteriorated and this is linked to the discharge of wastewater from new homes into the wastewater treatment works within the Stour Valley river catchment area. This appeal site falls within this catchment area. In line with NE advice, any development resulting in additional overnight

accommodation must be nutrient neutral, otherwise the proposal will cause impacts upon the integrity of Stodmarsh Nature Reserve. The council informs me that, as yet, there has been no resolution of this matter, hence the second main issue set out below.

Main Issues

5. The main issues in the case are: i) the effect on the character and appearance of the Old Dover Road, Oaten Hill and St Lawrence Conservation Area; and ii) impacts upon the integrity of Stodmarsh Nature Reserve without mitigation.

The site and surroundings

6. The site is situated within the Old Dover Road, Oaten Hill and St Lawrence Conservation Area. At present there is a single house and garage on the triangular site. The house is of 1½ storeys, finished in red brick, with a pitched roof. The land levels of the site slope away from Old Dover Road down to the railway line, which is in a cutting, located along the south-eastern boundary. The existing house is set back from Old Dover Road by approximately 20 metres. There are a number of mature trees within the site including some which front Old Dover Road. The existing buildings on site are not of any special architectural merit and do not have a particularly positive impact on the conservation area. Their demolition had been accepted by the council previously.
7. Old Dover Road does not have a particularly cohesive character, featuring a wide variety of architectural styles traversing across a long time-span. As the response from the council's senior heritage officer explains, historically the appeal site was part of the curtilage/gardens of 'The Hoystings', listed as Grade II*. That building makes an important contribution to the character of the area and is prominent in views through the area. It is an interesting example of an early eighteenth century straightforward classical house Gothicised in the early nineteenth century.
8. In between the site and the Grade II* property is a 3 storey terrace of 5 dwellings dating from the 1970s, constructed in yellow brick with tile hanging. This is set back from The Hoystings allowing the latter to remain prominent within the street scene. However, this terrace built long before the designation of the conservation area in November 1998, and having little regard for its surrounding, effectively cuts off the appeal site as an element in the setting of the listed building. In that context, the house on the appeal site, being set well back from the frontage, is unobtrusive. Opposite the appeal site is a wall, a locally listed structure, which is the remnants of the St. Sepulchre's Nunnery, behind which is further housing. To the west of the wall are townhouses that are three and four storeys in height.

The effect on the character and appearance of the Old Dover Road, Oaten Hill and St Lawrence Conservation Area

9. The appeal application went before the Planning Committee, when it was refused on the basis that the site is prominent within the conservation area and, given the context of the surrounding residential buildings including the tall Victorian terrace opposite, the proposed development of flat roof and bulky design, resembling an office block, was incongruous and out of keeping.

10. The appeal proposal is for a part 2 storey, but mainly 3 storey building, with basement, which corresponds to the adjacent buildings. More importantly, the front elevation has been broken down into separate compartments, with the smaller recesses in contrasting material to the main facing of red brick. It is set back within the plot, which in combination with the height and massing will ensure that it would not dominate the street scene, so that the Grade II* listed building will retain its prominence and its setting will be preserved. Furthermore the fenestration is a bold element of the façade which, with its vertical emphasis, provides a reflection of the stuccoed Victorian terraces on the opposite side of the road, albeit with contrasting colour and texture. In my judgement, a modern interpretation of scale, form and design is preferable to a pastiche approach which, except in exceptional circumstances, devalues the quality of the historic forms of architecture in the vicinity. The flat roof is in the modern idiom, which should not be rejected simply because it fails to imitate predecessor buildings.
11. I do not agree that the proposed building is of bulky design, since it is sensitively articulated as I have already described. The appeal proposal reflects the varied architecture of the area and maintains a satisfactory relationship to the scale and form of its surroundings, providing a satisfactory modern solution to its context. I conclude that the proposed building will preserve the character and appearance of the conservation area, presenting no harm to the listed building or its setting.

The need for mitigation in relation to the Stodmarsh Nature reserve

12. Stodmarsh Nature Reserve is protected under European Law and is managed by NE. NE has identified that the water quality in the lakes there has deteriorated and this is linked to the discharge of wastewater from new homes into the wastewater treatment works within the Stour Valley river catchment area. In line with NE advice, any development resulting in additional overnight accommodation must be nutrient neutral, otherwise the proposal will cause impacts upon the integrity of Stodmarsh Nature Reserve. Since as yet there has been no resolution of this matter and there is no indication of when a solution may be found, I must determine the appeal as the case stands at present. As the competent authority, I have a duty to ensure that there is no impact on the Special Protection Area. Without an assurance that there would be no detriment to the ecological importance of the Stodmarsh Nature Reserve, the proposed development cannot be permitted.

Other matters

13. Other matters are raised by the appellant, such as doubt about the ability of the council to demonstrate a 5-year supply of land for housing and the public benefits of the scheme. However, in view of my conclusions above, it is not necessary for me to explore these matters. I have taken account of all other matters raised, which the council fully considered and regarded as not amounting to over-riding objections to the scheme. I see no reason to disagree with those judgements.

Overall conclusion

14. Whilst I find that the proposed building will preserve the character and appearance of the conservation area, presenting no harm to the listed building or its setting, the fact that, without suitable mitigation or other assurance that

the development would nutrient neutral, the appeal proposal would be detrimental to the ecological importance of the Stodmarsh Nature Reserve. This means that I must dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR