
Appeal Decision

Site visit made on 12 October 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2021

Appeal Ref: APP/T2215/W/20/3258837

4-12 Lowfield Street and 9-13 Market Street, Dartford, Kent DA1 1HA

- 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 Newview Development Ltd against the decision of Dartford Borough Council.
 - The application Ref DA/19/01388/FUL, dated 30 September 2019, was refused by notice dated 13 March 2020.
 - The development proposed is "Demolish the existing building and retain the Lowfield Street facade and basement to allow for the provision of commercial space (predominantly A1 with some flexibility for A2/A3 (or A2/A3/B1/D1 to Market Street)) on the ground floor and five stories of residential accommodation (C3) above containing 26 flats in total (Mix of Studio, 1-Bed and 2-Bed Flats). Provision of bins and bicycle stores, communal entrance from Market Street and a central communal courtyard for shared amenity space."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application site description only referred to the properties in Lowfield Street. The site also includes properties in Market Street and therefore, the heading above refers to these. None of the appeal documents confirm the address of Market Street property next to 11 Market Street and rear of 12 Lowfield Street. Within this decision, it has been referred as 13 Market Street.
3. With this appeal submission, amended plans relate to the extended and reformed building on Lowfield Street, the emergency fire escape to the rear of this building, and fenestration/door changes. Further three-dimensional plans show the side access/alleyway onto Market Street and the fire escape.
4. The original application plans showed the new Lowfield Street building to have a flank projecting built 'nib' above a boundary wall to the rear of 11 High Street, a listed building. The amended plans show the removal of this 'nib', the squaring off of this building's flank elevation, and its position back behind the wall. The fire escape is to be re-sited further behind the boundary with 11-15 High Street and its staircases located on the section of the fire escape furthest away from the boundary, with the nearest section comprising a landing area linking the staircases between the different levels. The fire escape would be designed with semi-circular end landing areas and exterior perforated panels. Fenestration and door changes correct anomalies in the scheme's details

except for a further window to the living space of a second floor flat facing the proposed centrally located communal gardens.

5. These plans, details and information do not materially change the nature of the application and seek to address objections and queries raised by the Council. The Council and third parties have had time to assess them in their representations and their opportunity to make representations has not been prejudiced. Thus, they have been accepted for this appeal assessment.
6. On the 20 July 2021, a revised National Planning Policy Framework (the Framework) was published. The comments of main parties have been considered in this decision where they have chosen to submit correspondence on this matter.

Main Issues

7. The main issues are (a) whether the proposal would preserve or enhance the character or appearance of the Dartford Town Centre Conservation Area, (b) the setting of Grade II listed buildings at 11 and 15 High Street, (c) affordable housing, (d) the living conditions of future occupiers of a second floor flat, having regard to the provision of outdoor amenity space and outlook, (e) the living conditions of the occupiers of 11 to 17 High Street, having regard to outlook, sunlight, daylight and privacy, and (f) vehicular parking and sustainable modes of transport.

Reasons

Character and appearance

8. The appeal site comprises buildings that are two to three storeys in scale, varied in design and age, with alterations and extensions. At 4 to 10 Lowfield Street, the building has a neo-classical style façade at the first and second floor, dated early to mid-19th century, and a modern 20th century ground floor shopfront. Its upper façade has painted brickwork, sash multi-pane windows within moulded architraves and at the roof eaves level, it has a plain frieze and moulded cornice. There is a parapet roof above concealing shallow pitched butterfly roofs behind. The similar scaled building at 12 Lowfield Street is much narrower dating to the mid-20th century and has a brick first floor, stucco pilaster strips, sash windows with gauged brick lintels and similar eaves cornice. On its Market Street elevation, there are upper floor brick pilaster strips, white rendered bays in between and sash windows.
9. To the rear of Lowfield Street façade, there is a modern and extensive two storey flat roofed warehouse structure which abuts the rear of the High Street, including Nos 11 and 15. Behind 12 Lowfield Street, the two storey building at 13 Market Street is constructed with brick and slightly recessed concrete panels and dates back to the late 1920s. It has a pedimented central window and crittal style windows at the first floor, a detailed parapet with ball finials above, and a hipped slate roof behind. Of later age, the remaining Market Street buildings are mainly brick constructed and rudimentary in appearance.
10. The Dartford Town Centre Conservation Area Appraisal (CAA) 2006 details Roman, medieval, early modern and modern historical development. The High Street was part of a key roman London to Canterbury road and pilgrimage route. Lowfield Street had early 'almshouses' dating back to the 16th century that were rebuilt in the late Victorian period. Early 20th century civic

improvements included the nearby Central Park, enlarged with the garden of Bank House, and the public library next to the public open space. In the mid-1930s, the library was extended to house a museum and a programme of slum clearance and general town improvements ran throughout this period.

11. Within the Conservation Area, architectural interest reflects the variety of differently aged buildings since medieval times, with the area having a high number and density of listed buildings, including those at Nos 11 and 15. A defining feature is the quality and quantity of architectural features, including architraves, brick quoining, multi-planed sash windows, parapets, and roof eaves. Historical significance is wide ranging reflecting the town's development since Roman times whilst artistic interest is created by many of the historic buildings and structures, including pieces of public art, such as the Dartford War Memorial. These architectural, historic and artistic qualities are important, contributing to the significance of the Conservation Area and its special interest.
12. On the appeal site, the Lowfield Street buildings makes a positive contribution to the character and appearance of the Conservation Area due to their architectural and historic qualities. At 13 Market Street, ground floor openings have been infilled but despite its more modern appearance, it also contributes positively because of its architectural and historic qualities. It stands out as a 1920s development that marked the laying out of Market Street. By reason of unattractive appearance, the buildings at Nos 9 and 11 and to the rear of the Lowfield Street façade (the warehouse structure) provide a negative contribution to the qualities of the Conservation Area.
13. The proposed six storey tower would be substantial in scale and bulk relative to its two to four storey surroundings because of its height, frontage width on Market Street and depth facing the neighbouring estate agent building. It would overwhelm the far more modest scale and proportions of this neighbouring building. The balconies would emphasise the tower's immenseness due to their vertical stacking above one another, their wrap around nature and projection beyond the built face of the building tower.
14. The tower would be located at the point where Market Street expands out in width and space, with attractive street enhancement having recently taken place. The existing building at 9 Market Street is sited forward of the neighbouring estate agent building. However, this corner of the site is still within Market Street rather than an intersection of main routes, and the scale, bulk and height would be intrusive.
15. The Market Street elevation, including the tower, would have various architectural features. Adjacent to the tower, the building would be stepped back at first and second floor, and third floor levels, and there would be a glazed staircase demarcating the old, No 12 Lowfield Street, and the new development. Recessed windows would be aligned with those of neighbouring buildings and within the facing brickwork, there would be different coloured yellow bricks, with features, such as window headers, banding, and relief panels.
16. However, the buildings within the Conservation Area, whatever their age, are marked by the quality of noticeable and prominent architectural detailing. On Market Street, the appeal building's detailing, such as brick arches and banding, would appear innocuous because they would lack substantive

articulation due to their general flatness on their elevations, and would visually merge into the surrounding brick work of similar colour. Parapets would lack purpose consisting of brick work with simple coping above. Whilst yellow brick is used elsewhere, its use here would be extensive due to the size of the building and the use of the differing colours would be too subtle to overcome its overly excessive use. Furthermore, the existing buildings along Market Street are defined by smaller frontages and greater vertical subdivision which the scheme lacks. Whilst aspiring to the town's industrial past, the bespoke balcony pattern would be etched onto the glazing appearing superficial.

17. As a result, the architectural treatment of this part of the development would be weak which would result in the building having a plain and stark visual quality. This part of the development would detract from architectural quality of the Conservation Area and its significance.
18. Along Lowfield Street, the Council has permitted a higher storey development in the town centre. At Copperhouse Green, there is a 7 storey block but this does not face onto Market Street, being separated by a lower storey building to be used for a restaurant/micro-brewery, and it faces onto Central Park which provides greater scope for the higher storeys due to the park's expanse. On Lowfield Street, the 4/5 storey is of lower storey height compared to the tower feature under the appeal and rises gradually in storey height to form a landmark building at the corner of Lowfield Street and a major pedestrian route into the park. The tower feature before me would not be at the meeting of two routes and for these reasons, there are significant differences between the two schemes, especially in terms of context.
19. The unattractive warehouse building would be replaced with a single storey-built ground floor and a communal garden above. However, there would be a substantial fire escape structure and even as amended, it would still project out from the rear of the new Lowfield Street building at a considerable scale and height. Within its traditional designed context, especially that provided by the rear of properties along the High Street, it would appear at a strikingly discordant and dominant feature.
20. The retention of the Lowfield Street façade would not be a benefit as it exists, although replacement of the existing shopfront along with the introduction of shopfronts on Market Street, with a sympathetic design, would visually improve the street. However, the identified harm to the Conservation Area would be far greater outweighing this benefit.
21. In accordance with the Framework, the type of harm identified above to the Conservation Area from the proposal would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the scheme.
22. The twenty-six flats would boost housing supply, irrespective of whether the housing meets the Council's dwelling mix requirements. It would still provide a range of smaller-scale accommodation that is typically found in town centres. The commercial floorspace would benefit business and would provide employment through its construction and operation. New residents would benefit the town centre and wider economy through their financial spend on goods and services, and together with the floorspace would increase town centre vitality and viability. They would help foster a stronger residential community within the town centre. The scheme would develop a brownfield

site. Given its town centre location, there would be very good access to services and facilities, and public transport, reducing the need to travel by private vehicle. The shopfront improvements would be beneficial. The proposal though would not revitalise and deliver transformative development due to its overall design shortcomings.

23. Due to its design shortcomings, the development would fail to preserve the character and appearance of the Conservation Area. Considerable importance and weight are attached to the desirability of preserving the character and appearance of the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Accordingly, the heritage asset harm would outweigh the scheme's benefits.
24. In conclusion, the development would not be good design and would fail to preserve the character and appearance of the Conservation Area and harm would outweigh benefits. Accordingly, it would conflict with Policies DP2, DP12, DP13 and DP15 of the Dartford Development Policies Plan (DPP) 2017 and Policy CS2 of the Dartford Core Strategy (CS) 2011.

Listed buildings

25. Both listed buildings at 11 and 15 High Street have 18th century Georgian frontages with earlier structures behind. Both buildings occupy narrow irregular plots which are indicative of the historic burgage plots that once lined both sides of this medieval street.
26. At No 11, the building is two storey, with a modern ground floor shop front, painted plaster to the first floor, with exposed box sash windows, and a modillion cornice with parapet above. Behind this parapet, the double pitched front to back roof is of late 17th century/early 18th century origin. The rear outrigger is timber framed, brick in construction, has an unusual 9 mullioned ground floor window and a tall medieval chimney. It retains a significant proportion of its primary late 15th century/medieval building fabric, although its roof was replaced in the 19th century.
27. The building at No 15 is three storey, with a modern ground floor shop front, modern first floor sash windows but a historic second floor. To the rear, the range has a pitched roof running parallel to the High Street, a flank sash window, a rear single exposed timber and diagonal brace and a ground floor sash window. The building's scale, proportions, hipped roof and sash windows identify the building as Georgian in date. The rear part of the building is in poor condition, with the original lath and plaster infill panels to the timber framing visible.
28. The listed buildings' significance relates to their evidential value of their extensive primary building fabric, their historic character and appearance, and the building changes that have taken place incrementally over time. In this regard, there is significant architectural and historical interest to both the High Street frontages and the diverse configuration of the older rear outriggers/ranges. The scale, proportions, roofs and windows of the buildings contribute to this interest. Both listed buildings have group value due to their intervisibility.

29. To the rear, significance can be appreciated from yard areas to the side and rear of the outrigger/range of both heritage assets, as well from openings within the buildings. The area beyond this has no public access or ability to gain access to it, being the warehouse building. However, setting does not depend on these considerations and due to its immediate proximity, this part of the appeal site would form part of the setting to these listed buildings. It would be inevitable that the significance would have been appreciated from here, especially before the warehouse building was erected.
30. The warehouse building would negatively affect the setting of both listed buildings by reason of its size, scale and extent. The proposal would result in the demolition of this unattractive building. However, the appeal development would also result in the Lowfield Street frontage building being redeveloped, with a rearward extension/projection, additional rooftop storey, and a substantial fire escape staircase. Despite the amendments, the staircase would extend across almost the full length of the common boundary with Nos 11-13, be constructed with panels, reach the fourth floor of the new Lowfield Street building and would appear utilitarian in appearance due to its functionality. As a result, the development would not better reveal the significance of these listed buildings.
31. Therefore, the adverse impact on setting would be far greater than the existing warehouse building by reason of extent, scale and height. There would be an overwhelming sense of enclosure to the rear of No 11, including its roof and chimney stack, and the multi mullioned window below, and adverse impact on its setting. The staircase would be further away from No 15 but the end of the staircase would be in close proximity. Its extent, scale and height would be still be imposing adversely affecting the appreciation of the significance of the listed building and thereby its setting.
32. Internal fabric and features are also noted within the list description as forming part of the historical and architectural significance of the assets. The appeal development, including the staircase, would be near to windows serving the rooms of the outrigger at No 11. The appellant's daylight/sunlight report (DSR)¹ demonstrates that the loss of daylight and sunlight to these windows is already diminished. Although the DSR seeks to address amenity issues, it does demonstrate further loss of day light to relevant windows would be marginal and not material. In terms of sunlight, loss would be minimal as the windows are orientated mainly east. For the listed building at No 15, there would be sufficient distance separation to not adversely affect both daylight and sunlight coming into windows of this property.
33. Under the Framework, the type of harm identified above with the proposal for each of the listed buildings would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the scheme.
34. The development would result in economic, social and environmental benefits as previously identified. However, the proposal would adversely impact the settings of the listed buildings and how the significance of them would be appreciated. Considerable importance and weight are attached to the desirability of preserving setting. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its

¹ Consultant Advice Note, SHA Environmental Ltd, 25 August 2020.

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. Accordingly, heritage asset harm taken individually for the listed buildings would outweigh the scheme's benefits.

35. For all these reasons, the development would harm the setting of the listed buildings and the proposal would be contrary to policies DP2, DP12 and DP13 of the DPP, and Policy CS2 of the CS.

Affordable housing

36. There is significant need for social/affordable housing but the proposal makes no provision for affordable housing. CS Policy CS19 requires the provision of 30% affordable housing on sites such as this. DPP Policy DP9 states that affordable housing provision would be expected on developments coming forward. The Framework states for major housing development, planning decisions should expect at least 10% of homes to be available for affordable housing ownership, unless this would significantly exceed the level of affordable housing in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. The proposal would not meet these exemptions.
37. The Council's financial consultants found that the unviability of this proposal to be greater than that found by those of the appellant at the application determination stage. With the appeal, the appellant has updated their viability assessment confirming a deficit. The Council has chosen not to review this, but it is reasonable to conclude the scheme generates a significant deficit, at very least that agreed by the Council's consultants at the application stage.
38. There is a significant level of regeneration and investment occurring within the town centre and residential values could rise even within the time frame of a planning permission. The extent of the deficit raises concerns about the reasons for the development and whether it is based on values changing. However, there is no evidence that the costs of the development would change and even if they were to reduce, such a reduction would have to be substantial in order for the scheme to be viable and make a surplus. Although a major scheme, it is not of a scale like the Copperhouse Green development, with very long build-out timeframes, where rising values over the long term would be of significance.
39. For all these reasons, the lack of affordable housing provision is acceptable in this instance and justifies the requirements of Policy CS19 of the CS and Policy DP9 of the DPP, and the national policy of the Framework not being met.

Living conditions of second floor flat occupiers

40. A second floor flat has a balcony that is less than a metre in depth and surrounded by a high privacy screen. Due to this size and enclosure, the usefulness of this space would be significantly restricted. Occupants would be able to use communal garden space and there would be nearby public open space. However, the public open space would not be able to provide for the personal recreational and domestic needs of the occupiers of the flat, such as quiet relaxation, in the interests of health and well-being. The communal open space would be used by a significant number of other flat occupiers, including many at the second floor. Consequently, it has not been demonstrated that

the occupiers of this flat have a good standard of amenity, having regard to the provision of private outdoor space.

41. Amended plans show a new oriel window to serve the living room of this flat. It would face the communal open space ensuring acceptable outlook for the flat occupants. Notwithstanding this, the proposal would not result in a high quality living environment for the flat occupants for the reasons indicated and the proposal would conflict with Policy CS17 of the CS and Policy DP5 of the DPP.

Living conditions of occupiers of 11 to 17 High Street

42. The fire emergency staircase would be to rear of Nos 11 to 17. These buildings have commercial uses on the ground floor and the upper floors of these buildings could be re-used for residential uses, even if they are not already. However, the development would be a significant distance away from the directly facing windows of the upper floors. The yard areas, that could serve as amenity areas, are already substantially enclosed by existing development, and privacy screens could be erected on the more open landing areas of the fire escape to prevent overlooking. The constraint of listed buildings makes the possibility of a successful substantial redevelopment scheme coming forward difficult and as such, only limited weight can be given to such eventuality.
43. For all these reasons, the basis of the evidence indicates that the development would not affect the living conditions of the occupiers of the surrounding properties or prejudice future residential uses coming forward in these properties. Accordingly, the proposal would comply with Policy DP5 of the DPP.

Vehicular parking and sustainable modes of transport

44. No on-site parking provision would be provided in conflict with the advice of Dartford's Parking Standards Supplementary Planning Document (SPD) 2012 which details a requirement of 1 parking space per dwelling. However, DPP Policy DP4 details a requirement for the promotion of sustainable modes of transport. Paragraph 105 of the Framework states significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
45. Due to its town centre location, residents of the flats would be within easy walking distance of local facilities and services for shopping, leisure and employment. and public transport. The appellant's Public Transport Accessibility assessment indicates a "Good" level of accessibility to public transport services. For the residents, a sustainable transportation package would encourage use of public transport and bicycle.
46. Cycle parking provision would be provided in a communal area on the ground floor that would also provide rear access to the commercial unit. Though the implementation of an appropriate planning condition, this could be well-lit, safe, secure and attractive to use. An alleyway from Market Street would provide direct and easy access. The communal area is shared with residents but there are clear routes and room for commercial and flat users. The commercial unit has additionally frontage access to the road for servicing and there are several entrances in and out of this area for residents. There would be no impediment for residents to use this area for their bicycles. For all these

reasons, the need for residents to possess a private vehicle and require additional on-street, including overnight, parking would be limited.

47. There are also public car parks within the town and generally unrestricted on-street parking space nearby. Even if parking was required by residents, there is no substantiated evidence to prove parking stress and obstructive parking on the streets, even with new development opportunities being realised within the town. The highway authority has raised no objections to a car-free development subject to a condition required the implementation of an agreed travel plan. Such a condition can be imposed and as a technical consultee on transport matter, considerable weight is attached to this response.
48. For all these reasons, the development would not conflict with the Council's objective of reducing vehicular use within the town centre and the scheme would comply with local and national policy in locating development with sustainable transportation opportunities. Accordingly, the proposal would comply with Policies DP2 and DP4 of DPP and there is justification to not comply with the advice of the SPD.

Planning Balance and Conclusion

49. The scheme of flats and commercial floorspace would result in economic, social and environmental benefits. However, there would be significant harm to the character and appearance of the Conservation Area and the setting of listed buildings. Additionally, the living conditions of residents of a flat would be poor due to the limited provision of private outdoor space. Accordingly, there would be conflict with heritage, design and amenity policies of the CS and DPP, and conflict with the development plan taken as a whole.
50. The proposal would fail to achieve a well-designed place conflicting with design objectives of the Framework. The conflict with the Framework policies for conserving and enhancing the historic environment provide a clear reason for refusing the development proposed. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be refused.
51. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR