



Appeal Decision

Site visit made on 25 January 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeal Ref: APP/J4423/W/21/3284196
162-170 Devonshire Street, Sheffield S3 7SG

- 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 Primesite UK Ltd against the decision of Sheffield City Council.
 - The application Ref 20/03568/FUL, dated 5 October 2020, was refused by notice dated 26 May 2021.
 - The development proposed is the demolition of existing buildings and erection of a four storey building to provide 1,123sqm of commercial space (Use Class E) with ancillary areas.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The name of the applicant is given as Primesite UK Ltd in the original planning application forms, but the appellant's details are specified as Primesite Group Limited in the submitted appeal forms. Nonetheless, it has been confirmed in writing that the appellant is Primesite UK Ltd and I have used this name in the banner heading above.
3. The application form states that the site address is 162 Devonshire Street, Sheffield S3 7SG. Nonetheless, it is clear from the submitted details, including the appeal form that the address is 162-170 Devonshire Street, Sheffield S3 7SG. I have therefore used this address in the banner heading as it is more accurate.
4. This proposal follows planning permission Ref 14/03473/FUL (the 2014 permission). There is no dispute between the main parties that the 2014 permission remains extant by virtue of having been commenced. There is nothing to indicate that the appellant would not undertake that development regardless of the outcome of this appeal as it achieves a substantively similar aim, i.e. the construction of a modern replacement. This decision does not, therefore, go behind the fact that the demolition of Nos 162-170 is authorised.

Main Issues

5. The main issues are;
 - The effect of the proposed development on the character and appearance of the area, with particular reference to historic significance and the setting of Wharncliffe Fireclay Works, a Grade II listed building.

- The effect of the proposed development on the living conditions of the residents of 165 West Street and 12 Westhill Lane with particular regard to outlook and light.

Reasons

Character and Appearance

6. The appeal site contains 3 attached three storey Georgian properties that form a part of a terrace row on the northern side of Devonshire Street. These 3 properties sit on irregularly shaped plots located adjacent to the junction of Devonshire Street and Westhill Lane, within a designated 'Central Shopping Area', as defined by Policy S3 of the Sheffield Unitary Development Plan 1998 (UDP), in Sheffield City Centre.
7. The existing building on the appeal site is identified by the Council as a non-designated heritage asset. Wharncliffe Fireclay Works, a Grade II listed building, is also situated approximately 40 metres to the east of the appeal site, adjoining a separate row of properties on the same side of Devonshire Street. These rows of older historic buildings face Devonshire Green, a well-used area of public open space, which is the largest public park in the city centre, and also a car parking area.
8. Despite the Central Shopping Area designation, the appeal site is also situated in an area known as the 'Devonshire Quarter' which is a residential and mixed-use area. Whilst there are ground floor commercial units (some vacant) within the row that the existing appeal building is a part of, there are first and second floor residential flats above them. There is also a seven storey block of residential flats to the north of the site at 165 West Street, and a number of large scale modern apartments to the west.
9. Nonetheless, the size and open nature of Devonshire Green and the adjacent car park ensures that these rows of buildings, including Wharncliffe Fireclay Works and its attached terrace block, are capable of being viewed together from these areas. Both main parties agree that this is an important vista for the city centre. Visually historic buildings here attest to the historic evolution of the city in the present.
10. The appellant's Heritage Statement confirms that the rows of traditional shops, of which the existing building on the appeal site and Wharncliffe Fireclay Works are within, are one of, if not the oldest surviving commercial and domestic buildings in the central Sheffield area. I am also mindful that these rows of properties are identified as being an important early group of buildings that contribute to the character of the area and Devonshire Green within the Sheffield Centre Urban Design Compendium 2004 (UDC), an observation which accords with mine.
11. Despite being diluted by some alterations over the years, and the poor state of repair of the building and yard area, the significance of Nos 162-170, insofar as this appeal is concerned, derives from its modest scale and historic architectural form and materials, representing aesthetically and communal value as a typical row of early nineteenth century shops located centrally within an historic area of the city. By consequence, I agree with both the Council and appellant, that Nos 162-170 should be considered as non-designated heritage

assets. There is no indication that the current state of the building has resulted from deliberate neglect, but has simply occurred incrementally over time.

12. The National Planning Policy Framework (the Framework) states at paragraph 203, 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application'. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'. That is notwithstanding my reasoning in paragraph 4, that the demolition of this building has already been authorised.
13. The proposal before me is to demolish the building and to replace it with one of a contemporary appearance, designed to address its corner location, with the introduction of curved corners and high levels of glazing to create active frontages and natural surveillance. Large aligning floor to ceiling windows within the first three floors also provide a vertical emphasis and a regular rhythm of openings within the building that tie in with the existing ground and first floor heights of the adjoining terrace row.
14. Nonetheless, the proposed development would be of a considerable size as it would replace 3 properties. It appears to me to have been designed to primarily maximise floorspace as it would occupy the entire 3 plots and would project outwardly past the rear elevations of the adjoining properties by a considerable distance. It would be discordant in terms of scale relative to the existing nature of Nos 162-170, whose significance derives in part from their modest form.
15. The proposal would also have an eaves line and an uncharacteristic set back flat roof that would be considerably higher than those of the adjoining terrace properties, which have pitched roofs. Whilst set behind piers with deep reveals the broader shaped glazed openings closest to the adjoining property would also fail to respect the simple, traditional proportions of the properties within the terrace row or the historic craftsmanship of their creation.
16. Furthermore, the use of dark grey brickwork and silver lightweight aluminium cladding and glazed curtain walling as the main finishing materials are at odds with the original red brickwork within the row. These factors would all combine to create a bulky, disjointed and conspicuous form of development that would punctuate what is otherwise a broadly harmonious scale of development and contrast with the existing roofscape and proportions of the adjoining terrace row.
17. The appellant has drawn my attention to other buildings in the city centre where alternative materials, similar to those proposed, have been used. However, the examples provided are in locations where there is more variety in the size, style and design of the built form. As such, these are not directly comparable to the proposal before me. Even if such schemes have replaced buildings with historic significance, although there is no evidence before me in that regard, that is no justification for allowing harmful development in the present.
18. Although I recognise that the UDC advises that new development should be innovative and contemporary in design, this is on the proviso that it should also respect and make a positive contribution to the scale and proportion of the

existing built form. In light of my reasoning above, the proposal would fail to achieve this.

19. The appeal site is also within the setting of the Grade II listed building known as Wharncliffe Fireclay Works. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon me to have special regard to the desirability of preserving the setting of a listed building (defined by the Framework as the surroundings in which it is experienced, which inevitably included the non-designated heritage asset of Nos 162-170).
20. On the basis of the evidence before me I consider the significance of Wharncliffe Fireclay Works to derive, from its age, materials, architectural features, craftsmanship and similar location within the city as Nos 162-170. In reaching this view I have had regard to the listing description which explains that it is dated 1888, 3 storeys in height, faced in red brick with stone dressings, ornate terracotta decoration and the traditional shopfronts along the main front and return.
21. The surroundings of the listed building have changed considerably over time and I am mindful that views of the proposal would be seen against the backdrop of contemporary large scale buildings when approaching from the east. Nonetheless, as previously noted, Wharncliffe Fireclay Works along with the adjacent rows of shops are clearly visible from Devonshire Green. I agree with the Council that the scale, roof form, design, materials and proportions of the rows currently create a relatively harmonious setting for the listed building on the frontage to Devonshire Green. When viewed from this area of public open space, it also allows for the original historical context of the listed building to be appreciated. I thereby consider its immediate setting to be a reminder of its former historical surroundings and to positively contribute to revealing and understanding the significance of this listed building.
22. In light of my reasoning above, the proposal would negatively affect the ability to appreciate the significance of the listed building, and thereby fail to preserve its setting. The harm that I have identified above is, 'less than substantial' given that only part of the setting would be affected, and given that the demolition of the non-designated heritage asset has permission. Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 202 of the Framework, it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that this harm should be weighed against the proposal's public benefits.
23. I am mindful of the economic and employment benefits that would arise from securing a use for this city centre site and the improvements that this would make in respect of the vitality and vibrancy of the area. It would also regenerate and improve the appearance of a disused site which has an overgrown rear yard and vacant and derelict buildings on it. The appellant considers that this would have a very positive impact on the area in terms of the street scene and safety, and I have had regard to the crime statistics that have been put forward.
24. Nonetheless, it has not been demonstrated that the proposal represents the only means of developing the site and realising the benefits put forward. I understand the reasons for not providing viability information at the

application stage, given the recommendation for approval. However, there is nothing in the evidence before me to indicate that the particular scheme proposed is the only way of achieving such public benefits. This limits the weight that I can attribute to these benefits in favour of the proposed scheme.

25. Therefore, although the harm caused by the proposal would be less than substantial, it would nonetheless be significant in planning terms. With that in mind, I find that the limited public benefits involved do not outweigh the harm that would be caused to the significance and setting of the designated heritage asset.
26. As a consequence of all of the factors above, I find that the proposed development would have a harmful effect on the character and appearance of the area, with particular reference to heritage and to the setting of Wharncliffe Fireclay Works, a Grade II listed building. As such it would conflict with the clear expectations of statute, Policy CS74 of the Sheffield Development Framework Core Strategy 2009 and UDP Policies BE19 and S10. Amongst other matters, these seek high quality development that is of a scale and nature appropriate to the site, and respects the distinctiveness, including the scale, grain and context in which development is proposed. Proposals are also required to preserve the character and appearance of listed buildings and their setting.
27. In addition, conflict would arise with the design advice contained within the UDC which emphasises that the maintenance and enhancement of existing character areas of high quality within the city is vital, and encourages development which responds to the city centre and local distinctiveness of each area. The proposal would also fail to conserve and enhance the historic environment, and not accord with the design objectives of the Framework, as advised in Sections 12 and 16.

Living Conditions

28. According to the Council's uncontested measurements the distance between the proposal and the south facing windows of the seven storey block of flats at 165 West Street, would only be approximately 5 metres. It has also not been disputed that all of the floors in this neighbouring building, other than the ground floor, are in residential use and I have no reason to question this.
29. I am mindful that close relationships between tall buildings are commonplace in higher density areas such as city centres. Nonetheless, as previously noted, the footprint of the proposal would cover the entire plot in contrast to circumstances now. At such close proximity to the first, second and third floor south facing habitable windows of No 165, the visual bulk and height of the proposed four storey building would significantly prejudice the level of outlook from these neighbouring windows and reduce the amount of natural light to them.
30. I also consider that the position of these neighbouring habitable windows in relation to the direction of the sun is such that the proximity, size and scale of the proposal would cause an unacceptable amount of overshadowing to them. There is little evidence before me to demonstrate that the recent planning permission for the change of use of No 165 from student accommodation to self-contained flats (Ref: 21/03545/FUL) would lead me to reach a different finding on this matter.

31. The submitted plans also show that the proposed building would project outwardly by approximately 18 metres beyond the rear elevation of 12 Westhill Lane. Nos 12-16 Westhill lane are accessed via an external staircase and the flat roofs of some ground floor garages. The flat roofs are of a size to provide private amenity space to these flats and the Council has provided evidence of residents sitting out on this area.
32. The nearest windows in No 12 would be set in approximately 1.5 metres from the shared boundary with the appeal site. I am satisfied that the orientation of these windows and the position of the outside sitting out area in relation to the proposal and the sun path would not result in an undue amount of overshadowing occurring. Nonetheless, the proposal would still present a substantial blank elevation along the full length of this shared boundary. Its mass and bulk would thereby visually dominate the outlook and have an oppressive and overbearing effect from the north facing windows of No 12 and its sitting out area.
33. The appellant argues that the nearby Devonshire Green provides a large higher quality area of amenity space for residents than the sitting out area. However, this would not offer the same accessibility, convenience or privacy as a reasonably sized private amenity area. This is especially the case if a resident would only want to sit outside for a relatively brief period of time.
34. I also appreciate that the fourth storey of the proposed building has been designed to be set back from the lower floors. The appellant argues that this would be an improvement in respect of the privacy levels of the occupiers of the adjacent flats on Westhill Lane when compared to what was approved under the previous permission (Ref: 14/03473/FUL). However, it appears from the limited evidence and drawings of the approved scheme before me that the proposal would have a greater negative effect on the occupiers of No 165 in terms of sunlight, natural light and outlook, and on the residents of No 12 in respect of outlook.
35. I therefore find that the proposed development would have an unacceptably harmful effect on the living conditions of the residents of 165 West Street and 12 Westhill Lane with particular regard to outlook and light. As such, it would conflict with UDP Policy S10, which amongst other matters, seeks to provide, where appropriate, an environmental buffer to shield sensitive land uses in shopping areas. It would also fail to accord with paragraph 130 of the Framework which seeks a high standard of amenity for all existing and future users.

Other Matters

36. The appellant's discussions with the Council, including those about a potential courtyard, and the agreed revisions to the scheme are noted. I am aware that Council planning officers accept the principle of redeveloping the site and that they have not found the effect of the proposal on the privacy levels of neighbouring residents to be objectionable. However, these would be neutral factors that do not weigh in favour of the proposal.
37. I am aware that planning officers recommended the approval of the planning application and I have had regard to their findings in the planning committee report. I also note the appellant's dissatisfaction and concerns about the inconsistencies in the Council's assessment of the living conditions of the

residents of neighbouring properties when compared to its approach when considering the previous planning application on this site (Ref: 14/03473/FUL). However, those matters are essentially administrative and I have assessed the scheme based on its planning merits.

Conclusion

38. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR