



Appeal Decision

Site visit made on 17 March 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/X1355/W/22/3291116

Land To The North Of 28 North Terrace, Seaham SR7 7EU

- 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 David Gill against the decision of Durham County Council.
 - The application Ref DM/20/01479/FPA, dated 19 May 2020, was refused by notice dated 15 September 2021.
 - The development proposed is the erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr David Gill against Durham County Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have used the description of development which is stated on both the decision notice and appeal form in the banner header above, as this was updated during the course of the planning application to reflect amendments made to the Town and Country Planning (Use Classes) Order 1987 in September 2020.
4. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Seaham Conservation Area.

Main Issues

5. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the Seaham Conservation Area (CA)
 - (ii) The effect of the proposed development on the living conditions of the occupiers of nearby dwellings
 - (iii) The effect of the proposed development on highway safety, with reference to parking demand and provision

Reasons

Character and appearance of the CA

6. The appeal site is located in a prominent position on the corner of North Terrace and Tempest Road. It also has a wider prominence due to the fact that North Terrace forms part of the built sea frontage of Seaham, meaning that the proposed development would be visible in longer reaching views. North Terrace is relatively uniform in terms of the height of the buildings along it, with the exception of the recently redeveloped site at 18 North Terrace (former Harbour View Hotel site) and another three storey building closer to the town centre. Elsewhere there is more variation in the heights and overall scales of buildings in the vicinity of the appeal site, and therefore in the respective impacts that these buildings have on their street scenes. The appeal site does not have any built development on it, with previous buildings having been demolished some time ago, and it presently has a neutral impact on its surroundings.
7. The Seaham Conservation Area Character Appraisal and Management Plan 2019 (CAMP) identifies the appeal site as falling within Character Area 2 – North Area, with the significance of this part of the CA being primarily defined by buildings of architectural interest. Reference is made specifically to North Terrace in the CAMP, where it is noted that properties are largely two-storied terraces, with some extending upwards an additional level, through an extra storey or dormer windows. It is further noted that the roofline is relatively even, with only a few variations in the length of the terrace. Whilst reference is made to the former Harbour View Hotel as having been demolished, there is no explicit reference in the CAA to its replacement, which has subsequently been constructed. Figure 56 of the CAMP highlights a key vista in which the appeal proposal would be clearly seen.
8. The reference point given on the plans submitted for the height of the proposal is the new development at No 18. It is self-evident that this is not only a high building, but one of some considerable bulk and massing in how it occupies its plot. By reason of its height, width and depth, the appeal proposal would itself be of a comparable scale but it would have a greater visual impact, being located on a corner. Whilst there are buildings of height in the immediate vicinity of the appeal site, notably the terrace at 1-7 Tempest Road and Barclay House which are identified as non-designated heritage assets, and the listed buildings that form Bath Terrace, those buildings do not have the same combination of height and depth as the appeal proposal would. They are, as a result, buildings that have a much lesser massing and bulk, and as a result they have a far less dominant impact. The proposal would not relate well to these existing buildings in terms of its massing, bulk and overall visual relationship.
9. The impact of the appeal proposal would be readily apparent from many vantage points in the surrounding area, including from the expansive open area in which the listed Seaham War Memorial is located and from near to the harbour looking back along the coastline and the town's sea front. As a result of its scale, the proposal would not sit well within the row of properties on the North Terrace frontage or in the context of the aforementioned properties at Tempest Road and Bath Terrace, even noting the presence of the new development at No 18. There would be an equally harmful impact when viewed from along Tempest Road and from the road between Nos 7 and 9 Tempest

Road. This would be in particular in terms of its comparative scale and massing when compared to the adjacent building at 4 Tempest Road, itself identified as a non-designated heritage asset, and the modern residential block that is located next to it. There would also be views of the proposal taken down North Road in between the terraces at Nos 1-7 and Barclay House/Bath Terrace, where the proposal too would appear as a visually dominant feature in the context of its surrounding buildings.

10. It is suggested that the proposal would 'book-end' this part of North Terrace, in conjunction with the development at No 18. However, whilst there is a highway running to the side of No 18, it is narrow in width and due to the scale of the newly built building, the road is not read as a visual break along the frontage. Instead, North Terrace is seen as a much longer frontage, and the appeal proposal would not form a book-end within such a context. But in any event, book-ending would not overcome the harmful impact that would arise from the overall scale of the proposal, and in particular its visual dominance and its harmful visual relationship to the buildings and street scenes that I have identified.
11. The proposed development would therefore, due to its height, bulk, massing and positioning, be an overly dominant feature that would appear incongruous in its surroundings, and one which would cause harm to the character and appearance of the CA. Whilst the proposal would not be objectionable in terms of its design and appearance taken as matters in isolation, this does not overcome the other harm that would be caused. Given the nature of the proposed development and that the harm would be relatively localised, I consider that less than substantial harm to the CA would be caused. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework).
12. In this regard, public benefits have been outlined which relate to the recycling of a disused site in a sustainable location and the provision of an active frontage at ground floor level, in addition to economic and social benefits through both construction jobs and jobs once in use, with an expectation of 80 full and part time jobs being created in addition to other indirect employment. These benefits carry moderate weight in favour of the proposal, in the context of the size of the development that is proposed. However, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit from the appeal proposal, this does not outweigh the harm to the CA that would arise.
13. For the above reasons, I conclude that the proposed development would cause harm to the character and appearance of the CA. Consequently, the proposal would fail to accord with Policies 29 and 44 of the County Durham Plan 2020 (CDP) where they seek to achieve well-designed buildings and places and to protect the character and appearance of Conservation Areas. The proposal would as a result also fail to preserve or enhance the character and appearance of the CA. Furthermore, there would be a conflict with The Framework, where it too seeks to achieve well-designed places, and because the harm to the CA is not outweighed by public benefits.

Living conditions

14. The proposed development would be located closest to the dwellings that form the terrace at Nos 1-7 Tempest Road. Reference is made to the Council's Residential Amenity Standards Supplementary Planning Document 2020 (SPD) which specifies minimum standards to be applied to new residential developments. Although this provides a useful guide, the SPD states that it is not intended to apply the standards rigidly.
15. Whilst I note the representations of interested persons with respect to the layout of the dwellings on Tempest Road and that they have a lower level whose floor sits below ground level, nonetheless the separation distance that would be afforded would be adequate to ensure that there would be no adverse impact resulting to living conditions due to the height, massing and positioning of the proposal. Planning conditions could be utilised to address matters relating to the use of obscure glazing on upper floor windows, hours of opening, hours of use of external areas, noise insulation and odour and such controls would further protect the living conditions of the occupiers of these nearest dwellings. Furthermore, there was no objection raised to the proposal from the Council's Nuisance Action Team, subject to the aforementioned conditions.
16. For these reasons, I conclude that there would be no harm to the living conditions of the occupiers of nearby dwellings as a result of the proposed development. The proposal would therefore accord with Policies 29 and 31 of the CDP where they seek to protect living conditions. There would also be no conflict with the aims of The Framework in the same respect.

Highway safety

17. The proposed development would provide four off-street parking spaces, which would serve the residential units. There would be no car parking provided for any of the commercial units and therefore any parking generated by those units would need to be absorbed by the existing provision in the area. Parking is available on-street close to the site and in the car park opposite, with the appeal site also being within walking distance of the centre of Seaham and to public transport. At the time of my visit on a cool but sunny and dry spring morning, parking was available close to the appeal site both on-street and in the adjacent car park, although it could not be said that availability was plentiful as the majority of spaces were occupied by vehicles. I accept however that this represents only a very short snapshot in time.
18. The submission before me contains only limited evidence relating to parking demand and to the prevailing parking conditions in the surrounding area. Therefore, there is minimal information on which to make an assessment of the impact that would arise from the appeal development. The minutes from the Planning Committee meeting and the representations from interested persons point to high levels of demand for parking in Seaham during certain periods. The Highway Authority (HA) acknowledge that the proposal would inevitably increase on-street demand in the area and that the development makes very little provision to mitigate the parking issues. It is also not clear as to what the parking situation might be in the summer months when the weather is better, with the resultant likelihood of an increase in the number of visitors and tourists to Seaham.

19. Ultimately however, the HA were of the view that parking considerations would not meet the threshold set out in (now) paragraph 111 of The Framework, as there would not be an unacceptable impact on highway safety. This assessment carries considerable weight in my considerations, along with the fact that the appeal site is located very close to the town centre and thus has good potential for linked trips and access by other modes of transport other than a private motor vehicle. There are also parking restrictions in the area to prevent unauthorised parking that might be inappropriate or dangerous, and it is suggested by the HA that these restrictions could be extended further to address specific issues that may arise in respect to the appeal proposal. Furthermore, the thrust of current development plan policy is to limit car parking at destinations to encourage the use of sustainable transport.
20. Taking all of these considerations together, I conclude that the parking provision that is proposed would not result in a development that would cause harm to highway safety. Consequently, the proposal would accord with Policy 21 of the CDP, where it seeks to deliver sustainable transport in a safe manner. As there would not be an unacceptable impact on highway safety, there would also be no conflict with The Framework in that regard.

Other Matters

21. I note that there was no objection to the proposal from the Council's Conservation Officer and that the recommendation to the Planning Committee was to grant planning permission. I also acknowledge that the appellant has evolved the proposals during the course of the planning application to address concerns that were raised by Council Officers. However, whilst I am mindful of all the submissions that have been made in those respects, I am required to make my own judgement on the impacts that would arise from the proposed development.

Planning Balance & Conclusion

22. For the reasons that I have set out above, the proposed development would cause harm to the character and appearance of the CA and fail to accord with Policies 29 and 44 of the CDP. Consequently, the proposal would not preserve or enhance the character and appearance of the CA. The harm caused would not be outweighed by public benefits, which I find to offer moderate weight in support of the proposal.
23. Whilst I have not found harm to living conditions or to highway safety, the absence of harm in those respects does not overcome the other harm I have identified and the subsequent conflict with the development plan.
24. In conclusion, the proposal would conflict with the development plan and there are no other considerations, including The Framework, that outweigh this conflict. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR