
Appeal Decision

Site visit made on 19 April 2022

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/G2625/W/21/3282292

Earlham Court, Heigham Grove, Norwich NR2 3DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Winesham Ventures Ltd against Norwich City Council.
 - The application Ref 21/00212/F is dated 5 February 2021.
 - The development proposed is upward extension of building of two additional storeys to create 8 new flats (4 x 1-bed and 4 x 2-bed)
-

Decision

1. The appeal is dismissed. Planning permission is refused.

Preliminary Matters and Main Issues

2. The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. The Council resolved that had it been in a position to determine the application, it would have refused planning permission for reasons relating to the effects of the scheme on (1) the character and appearance of the area, (2) heritage assets, (3) the living conditions of the occupiers (current and future) of Earlham Court, (4) the living conditions of other residents living nearby and (5) highway safety.
3. However, although the Council has raised concerns with regard to internal living space and associated concerns with regard to the accuracy of the plans, the Council has not clearly explained why it considered the proposed units of accommodation would not provide acceptable internal space. The appellant has also suggested an amended plan could be submitted to address this issue. Based on the information before me I am unable to reach a definitive conclusion on the matter. However, for the avoidance of doubt and without prejudice to any future schemes, I have determined the appeal on the basis that the scheme provides eight new dwellings which would provide acceptable living conditions for future occupants as this would not alter the outcome of the appeal either way.
4. The Council has also raised concerns with regard to highway safety. However, it is not explicitly clear whether or not those concerns could be addressed by planning conditions. Again, the appeal scheme would not turn on this matter. Thus, I have not sought further information from the parties and instead, without prejudice to any future schemes, I have determined the appeal on the basis, that the scheme would not harm highway safety subject to the

imposition of planning conditions relating to bin and cycle storage, parking and servicing.

5. The Council have also drawn my attention to advice issued by Natural England relating to development such as the appeal scheme and its potential to affect water quality resulting in adverse nutrient impacts on the Norfolk Broads Special Area of Conservation (SAC) and Ramsar Site and the River Wensum SAC. However, as I am dismissing the scheme for other reasons, in the interests of efficiency I have not sought views on the matter or considered it any further.
6. My attention has also been drawn to the reference numbers for two dismissed appeals¹ which the Council say relate to this site. However, only one of those decisions has been put before me, that dismissed in 2005² for a scheme including an additional floor to provide four penthouse apartments to a different building nearby, so I have afforded it limited weight. With regard to the second decision, without seeing the details of that decision I have been unable to consider it, nor has the appellant.
7. Overall, with regard to all preliminary matters, I am satisfied that no party has been prejudiced by my approach. Against this background, I therefore consider the main issues are the effects of the proposal on:
 - the character and appearance of the area, bearing in mind it would be within the Heigham Conservation Area and within the setting of the grade I listed Roman Catholic Cathedral of St John the Baptist, Earlham Road.
 - the living conditions of existing nearby residents (including existing residents of Earlham Court) with particular regard to privacy and light.

Reasons

Character and appearance and heritage assets

8. The site comprises a long and rectangular modern two storey apartment block with associated parking, garaging and amenity areas. It is within the Heigham Conservation Area (CA). To the east on higher ground is the grade I listed Roman Catholic Cathedral of St John the Baptist, Earlham Road (the Cathedral).
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. Section 72(1) of the same act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Moreover, paragraph 199 of the National Planning Policy Framework (the Framework) makes clear 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.

Significance

10. The CA comprises mainly 19th century terraced dwellings and detached houses in mature landscaped plots. It also includes a number of ecclesiastical

¹ Appeal decision APP/G2625/A/05/1173314 & APP/G2625/A/05/1173209

² Appeal decision APP/G2625/A/05/1173314

buildings including the dominant Cathedral. It is close to and is an early expansion out from the city centre and has an erratic topography based on historical chalk and flint quarrying. Insofar as is relevant to this case, the significance of the CA is founded on the variety and quality of the architecture, its topography and relationship with the city centre.

11. The Cathedral is grade I listed, a designated heritage asset of the highest significance. It was constructed from 1882 to 1910 and is of cruciform plan, with a nine-bay nave, four-bay chancel and three bay transepts. It has a variety of decorative internal and external ecclesiastical architectural features. Insofar as is relevant to this appeal the significance of the Cathedral, is founded on its architectural detailing, its ecclesiastical use and its positioning and prominence.

The effect of the proposal on Heigham Conservation Area and the Cathedral

12. The appeal building is a basic 1950's rectangular block of simple brickwork with a pantile roof. The proposed development would extend the existing apartment block upwards by replacing the existing hipped roof with two additional storeys of mainly brickwork and windows and a new hipped roof to create eight new flats.
13. I note the CA Character Appraisal describes the appeal site as part of an area of low quality post war infill. I also note the appeal building is not of the same character as the adjacent art deco style Heigham Grove flats. However, the proposal would significantly increase the height of the appeal building through adding more of the same basic rectangular brickwork interrupted only by small windows with a simple large hipped roof almost identical to the existing.
14. Even though the appeal building is set back from the road it is a noticeable large modern feature of an otherwise traditional street scene. The proposal would increase its prominence. In doing so, it would exacerbate its bland and utilitarian appearance, making the extended appeal building, the dominant feature of this part of Earlham Road. The scheme would be particularly noticeable when looking up at it, from the adjacent open space on lower ground, known as "the Dell". Whilst the trees and vegetation would offer some screening, it would remain visible through gaps in the mature trees particularly when the trees are not in full leaf.
15. I find the proposed development would result in a highly prominent modern and utilitarian feature in the CA. The scheme would be at stark odds with the traditional features of the historic buildings nearby which form an integral part of the significance of the CA overall.
16. Furthermore, when approaching the appeal site from the west on Earlham Road, the grade I listed Cathedral is visible above the existing roofline. Earlham Road is a main route towards the Cathedral and city centre. Interrupting the view of the Cathedral on this main route would erode its dominance and introduce prominent and bland modern development within the setting of a designated heritage asset of the highest significance.
17. Thus overall, the proposal would therefore fail to preserve or enhance the character or appearance of the CA, harming the significance of the CA as a whole. It would also harm the setting and significance of the grade I listed Cathedral.

18. However, the combined harm I have identified to the significance of the designated heritage assets would be less than substantial. In which case paragraph 202 of the Framework requires it to be weighed against the public benefits of the proposal, including where appropriate, securing optimum viable use. I will return to these matters in my overall planning and heritage balance below.

Living conditions (nearby residents)

19. The existing appeal building is already tall. However, it is set some distance away from neighbouring properties. Any views from the proposed upwards extension down into the shared amenity space, private gardens and windows would be from an angle and would be no more significant than any existing views.
20. Furthermore, the surrounding area is well landscaped which would interrupt any views and there is no substantive evidence to suggest the increase in height would lead to any significant additional overshadowing or loss of light enjoyed within the Earlham Court amenity space or inside other surrounding dwellings or their gardens over and above the effects of the existing building.
21. Thus, based on the evidence before me, I find the proposed extensions would not harm the living conditions of nearby residents with particular regard to privacy or light. In this regard the proposal would accord with the aims of Policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (2011, as amended 2014) (CS) and Policies DM1 and DM2 of the Development Management Policies Local Plan (2014) (DMPLP) which taken together seek to ensure good design and that new development does not harm the amenities of residents living nearby.

Planning and Heritage Balance

22. The proposal would provide eight new dwellings in a highly sustainable location where services, facilities and employment can be easily accessed without dependence on private motorised transport, indeed those dwellings would be car free. Eight new dwellings would contribute towards meeting housing need in the area. There would be economic benefits associated with construction and the local economy through additional labour force and local expenditure. However, these benefits when combined would be insufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage assets.
23. In reaching these conclusions I acknowledge the comment about the principle of additional floors being established through part 20 of Schedule 2 of the General Permitted Development Order 2015 (as amended). However, this scheme is not permitted development, so I have afforded this point limited weight. I have also attached limited weight to the concerns with regard to noise, disturbance and disruption arising from construction as if I was minded to allow the scheme, which I am not, I am satisfied this matter could be controlled by management plans and mitigation forming the basis of suitable planning conditions.
24. Overall, I am therefore led to the conclusion that the proposed development would harm the significance of the CA and would fail to preserve the setting or significance of the Cathedral contrary to the respective sections of the Act and

the Framework. For the same reasons it would also conflict with Policies 1 and 2 of the CS and Policies DM1, DM3 and DM9 of the DMPLP which among other things seek to achieve good design and ensure new development preserves, enhances or better reveals the significance of designated heritage assets.

Conclusion

25. For the reasons given above and taking into account all other matters raised, I conclude on balance the scheme would not accord with the development plan and thus the appeal should be dismissed and planning permission should be refused.

L Fleming

INSPECTOR