



Appeal Decision

Site visit made on 15 August 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/P2114/W/23/3315891

Hamlet Court, 6 Queen's Road, Cowes PO31 8BQ

- 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 Mr Preston of Hamlet Court Regeneration Ltd against the Isle of Wight Council.
 - The application Ref 22/00884/FUL, is dated 16 May 2022.
 - The development proposed is for the demolition of the existing dwelling and two new replacement villas on the site.
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Decision

1. The appeal is dismissed and planning permission for the demolition of the existing dwelling and two new replacement villas on the site is refused.

Preliminary Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has provided a statement setting out how they would have determined the application. This forms the broad basis of the main issues that I have identified.
3. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. The parties have been given the opportunity to comment on changes to the Framework, which have been taken into account in my decision.
4. The Council has advised that it has submitted its emerging local plan for examination. I have not been provided with a copy of that emerging plan or made aware of the proposal conflicting with any of its policies. I have determined the appeal on this basis.
5. I note the appellant's draft Statement of Common Ground, which identifies the design of the proposals as the only outstanding matter. However, this has not been signed by the Council, as such I cannot attach any weight to it in my decision.

Main Issues

6. The main issues are the effect of the proposed development upon:
 - The Cowes Conservation Area (the CA); and,
 - The non-designated heritage asset (NDHA), known as Hamlet Court.

Reasons

7. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. At paragraph 203, the Framework, sets out matters which should be considered, including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 205 of the Framework states 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.
8. The Framework defines significance as the value of a heritage asset to this and future generations because of its heritage interest and says the interest may be archaeological, architectural, artistic or historic.
9. The appeal site is located within the Cowes Conservation Area (CCA). The undated Cowes Conservation Area Appraisal (CCAA)¹ identifies three character areas within the CA, with the appeal site located in the Queens Road Character Area (QRCA). The QRCA is said to be an elegant but varied residential area, with substantial villas developed from the introduction of yachting in the 19th century.
10. The properties in the QRCA are said to be generally 2/3 storeys high within generous plots, and their roofscapes are said to be varied and quirky, although slate roofs were the predominant feature. It is recognised that since the CCA was prepared there has been some modern additions, including taller apartment buildings and new dwellings. However, the Council has also advised that the CA was listed on Heritage Risk Register for the South East in 2013 due to its deteriorating condition.
11. Properties in this part of the CA are generally tiered with land levels rising away from the Solent, allowing views from both the Solent and the Esplanade of the varied property styles. Villas, such as the appeal property, located on the Esplanade and Queens Road were designed to be seen, and for its occupiers to be seen from the Solent. I saw that in the area around the appeal site, apart from some modern additions, most properties were wide with pitched roofs, including West Cowes Church of the Holy Trinity and the Vicarage associated with it. The scale of properties varies, with most situated in generous plots with a varied degree of vertical emphasis. The considerable widths of properties, their pitched slate or dark roof coverings, and the variation in vertical emphasis contribute positively to the significance of this part of the CA.
12. Hamlet Court (HC) is said to have been changed from a dwelling into 7 no. flats in the 1950's, it is a considerably wide building, much altered particularly to its side nearest its adjoining property, Lantern House, from when it was said to have been first built as a marine villa in 1832, a summer residence for the yachting aristocracy.² It is set back from the Esplanade and commands expansive views onto the Solent. HC is a grand asymmetrical villa with hipped roofs, and some roof overhangs, and its presence contributes to Cowes social

¹ Said by the Council to have been adopted on 1/12/2004

² English Heritage listing decision 23 June 2004

and cultural yachting heritage, which is part of the historic significance of the CA.

Demolition of HC

13. The proposal is for HC to be demolished and the site redeveloped for 2 no. dwellings. Whether it is the last remaining waterfront villa or not, in view of the positive contribution that HC makes to the QRCA and the CA, the complete loss of HC would be harmful to it.

Structural report and condition of HC

14. The appellant's Structural Appraisal Report, by Cowan Consultancy, dated June 2020 (SR) refers to several significant issues with HC, including significant ground movements over the lifetime of the building, resulting in cracks on its sides, distortions to its floors and windows, and damage to its roof. Although, the SR does not find there has been significant ground movement between the SR (2020) and an earlier survey by Cowans Consultancy in 2015. The SR also states that the building is uninhabitable and said to be beyond economic repair.
15. The SR also highlights a lack of maintenance to the building over the years, which has contributed to the condition of the building. The Council has stated that the appellant's have deliberately neglected HC, which has contributed to its condition worsening from the earlier structural report undertaken in 2012. It is noted the appellant purchased the property in 2015 and although its condition may have worsened, the Council has not provided any precise evidence of any deliberate neglect beyond the lack of maintenance referred to in the SR. Nor has the Council made me aware that it has taken any action regarding HC's condition. Whilst there has been a lack of maintenance, which perhaps could have prevented some of the decay in the condition of the property, it is unlikely alone to have made HC habitable. I am not persuaded there is sufficient evidence of deliberate neglect by the appellant.
16. The Council has not disputed the condition of the building as set out in the SR, and from my own inspections, I see no reason to disagree with the conclusions within the SR regarding the condition of the building, which is an important material consideration.

Viability

17. The appellant's Viability Assessment prepared by Intelligent Land Ltd (VA) assesses the viability of the refurbishment of HC as 7 no. flats. Whilst I note the Council has not sought to object to the VA, it has queried the value given to HC given its condition. However, the Council has not provided any alternative valuation of HC or any alternative methodology for calculating viability in respect of HC.
18. The VA concludes that the value of HC if it were to be brought back into use as 7 no. flats would have a substantial negative value. I have no reason to disagree with its conclusions on the methodology used within the VA, or with the stated renovation costs.
19. Given identified positive contribution HC makes to the significance of the CA, its demolition should not be permitted if it could be retained. With this in mind, there is no assessment of the viability of HC being retained as a single dwelling or as a lesser number of flats. It is unclear if the renovation costs for 7 no. flats

would be as high for a different residential use within the building, and the sales values would also likely differ.

20. Furthermore, the VA does not provide a viability assessment of the redevelopment of the site for the proposed development, which given the identified issues with the groundworks and costs associated with the substructure, could affect its viability. Without knowing whether the re-development of the site would be any more viable than the refurbishment, or whether there could be other viable residential use, there is a lack of information to justify the loss of HC.
21. The VA has worked on a theoretical assumption of the site being acquired in 2022 to calculate the residual land value of the appeal site, and not the price paid for the appeal site in 2015 by the appellant, which is not known. This additional information could also have helped in respect of establishing viability.
22. As a result, whilst the VA shows the refurbishment of HC as 7 no. flats would be unviable, there is insufficient information about whether HC could be retained in a different form of residential use, or indeed whether its retention would be any less viable than the proposed redevelopment. As a result, there is a lack of information regarding viability to justify the loss of HC.

Proposed development

23. Notwithstanding the above harm, I shall assess the effects of the proposed development upon the CA.
24. HC is visible from the Esplanade and also from Queens Road on its rear side. Vantage Point, a modern apartment building is to one side of the appeal site, and also faces onto the Esplanade. Lantern House, a narrow and much less assuming property is attached to its opposite side. Grantham Court is located on the other side of Lantern House, it is also a modern apartment building. There are other mainly residential properties along Queens Road, Trinity Church Lane, and Baring Road on the rising land behind the appeal site.
25. The re-development of the site proposes two dwellings; Harriet Court nearest to Vantage Point; and 'new' Hamlet Court (NHC) nearest to Lantern House. They would both be 4 storey buildings with a small space between them.
26. At present the lower height of HC forms a punctuation between the taller and larger Vantage Point and Grantham Court buildings. The proposals significantly challenge this punctuation by proposing tall, narrow, modern buildings. Moreover, their narrow width gives them both a strong vertical emphasis. Whilst they are no higher and would have a smaller volume than HC, their increased mass at a higher level would harmfully contrast against HC's strong horizontal emphasis, particularly when viewed from the seascape, harming views of the variety of roofscapes on the Esplanade and beyond.
27. Harriet Court's flat roof across both its main part and its side element, would give that building a somewhat numb appearance, and would contrast starkly against the other many dark coloured pitched roofs of properties that it would be seen against, some of which are tiered on the rising land. NHC would have a pitched roof, but this would be on a narrow front facing gable, with a side element featuring a flat roof above the eaves height of its gabled part, notwithstanding its set back, it would create a disjointed appearance.

28. Both proposed dwellings are heavily glazed on their elevations facing the Esplanade, including horizontal windows that wrap around their side elements. The appearance of the glazed front facing elevations, even taking into account their degree of setback from the front edges of the buildings, would be incongruous, particularly at the higher levels, when they would be seen against the tiered dark roofs of smaller scaled properties behind.
29. The proposed retaining wall between Harriet Court and Vantage Point would be very tall, its scale and size would be particularly jarring and significantly detract from the character and appearance of the Esplanade.
30. Their overly deep footprints would also make the side elevations of the proposals pronounced, with the mainly long brick side elevation of NHC poorly relating to the small scale of Lantern House, creating harmful views of it from Queens Road. I note that some fenestration has been included on the outer side of Harriet Court, however, this does not reduce its considerable depth, which in turn exacerbates its tall narrow scale and harms the character of the area.
31. NHC's horizontal cladding would also conflict with its vertical emphasis, and it would not be distinctive to this part of the CA. Although, in other respects, the proposed external materials, including yellow brick, zinc seam roof, anthracite grey window frames, green roof, and dark grey tiles, would be appropriate in the CA. However, they would do little to offset the harm identified above.
32. The appellant has provided details of other modern buildings in the CA and drawn my attention to certain other examples; Vantage Point; No. 4 Queens Road; The Parade, Bath Road 'The Parade'; Bridge House, Baring Road/Trinity Church Lane 'Bridge House'; 22 Queens Road/ Stanhope Drive '22 Queens Road'; Cambridge Cottage, Baring Road 'Cambridge Cottage'; 42 Castle Road; and The Studio, Trinity Church Lane 'The Studio'. It is recognised that there are modern buildings in the CA, and I have taken these into account when assessing the effect of the proposal on the CA.
33. Vantage Point, and its neighbour, No. 4 Queens Road, both have a contemporary design, flat roofs, expansive glazing, and No. 4 has a similar shape and depth to the proposed dwellings. I have limited detail about their planning history. It is understood both were allowed at appeal in 2006, in which it is said the Inspector commented on the varied appearance of the CA. Both of these properties are located on the side of the appeal site nearer to the built-up area of Cowes, where there are some taller buildings. Whereas the heights and scale of properties generally reduce to the other side, between Vantage Point and Egypt Point. To allow a concentration of similar, mainly flat roofed properties, along the Esplanade would introduce a dominant roof form and architectural style that would not reflect the variety and quirky roof forms in the CA, including the architectural style of older villas.
34. The Parade, is located in a different part of the CA, and has a different context with much taller buildings in close proximity. Cambridge Cottage, The Studio, and Bridge House, are modern buildings located mostly on the rising tiers of land above and to the sides of the appeal site. They also do not occupy the same prominent location of the appeal site, and they have a different built context. 42 Castle Road is a large modern building that does not positively contribute to the CA, although it occupies a prominent location, its location is much different to that of the appeal site. Finally, 22 Queens Road, is located

farther away from the built-up part of Cowes than the appeal site and its scale and height is much different to the appeal proposal. Consequently, whilst there are some similarities with these other examples and the appeal proposal, they are not directly comparable, and they do not lead me to conclude differently regarding the harmful effects of the appeal proposal on the CA.

35. I therefore conclude that, the demolition of HC would be harmful, and its loss has not been fully justified, and notwithstanding the poor condition of the building, its proposed redevelopment would not either preserve or enhance the character or appearance of the CA, contrary to the duty in the Act. For the same reasons, the proposal would conflict with Policies DM2, DM11 and DM12 of the Island Plan, Isle of Wight Core Strategy (including waste and minerals) and Development Management, Development Plan Document, dated March 2012 (IP) which amongst other things requires development to be high quality that preserves or enhances heritage assets, prevents harm to such assets and conserve the Island's seascape. In addition, in view of the identified harm, there would also be conflict with paragraph 205 of the Framework that requires great weight to be given to the conservation of a heritage asset when considering the impact of development.

NDHA

36. HC is recognised by both main parties as a NDHA. As described above, and notwithstanding its poor condition, its cultural and social association with yachting are key parts of its historical significance as a NDHA. Although, I also recognise that it was deemed not to be worthy of being listed.³
37. The loss of the NDHA would be harmful to the character and appearance of the area and the proposal would conflict with IP Policies DM2 and DM11, insofar as they expect new development to protect, conserve and enhance the special character of the Island's historic and built environment and prevent the demolition of non-designated heritage assets, which make a positive contribution to the special character and local identity of an area.
38. In addition, paragraph 209 of the Framework states that a balanced judgement should be made in regard to direct harm to a NDHA having regard to the scale of any harm or loss and the significance of the heritage asset. As this proposal would constitute the complete loss of the NDHA, this direct harm would have to be weighed alongside any benefits of the scheme, which I shall have regard to later in my decision.

Other Matters

39. The Council has stated that its 2022 Housing Delivery Test score was 66%, and it has accepted that it does not have a sufficient supply of housing, In such circumstances, paragraph 11 d) i, states planning permission should be approved unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework, lists policies relating to heritage assets in regard to paragraph 11 d) i. Consequently, as I have found the harm to the heritage asset to conflict with paragraph 205 of the Framework, the Council's lack of housing supply does not lead me to conclude that permission should be granted.

³ English Heritage decision dated 23 June 2004, Ref. 157043

40. There are 3 no. grade II listed buildings near to the appeal site; Belmore House, 11 Queens Road; 9 Queens Road; and a Statue of a Lion on the Esplanade. Planning (Listed Building and Conservation Areas) Act 1990, S66(1) requires that when considering whether to grant planning permission for development which affects the setting of a listed building, I am required to have special regard to the desirability of preserving that setting. Paragraph 205 of the Framework also requires me to give great weight to the conservation of the setting of listed buildings.
41. Both No.'s 9 and 11 are 2 storeys high with hipped slate roofs, they are setback from Queens Road which would also be in-between them and the appeal site. Views of these listed buildings and the proposed development would be seen along with other modern development at No. 7, Queens Road and Grantham Court, such views would also be at some distance. For these reasons, the proposed development would not be harmful to the setting of these listed buildings.
42. The statue would be located to one side of the appeal site on the edge of the promenade, it would mostly be seen when travelling along the promenade itself, from the Solent, or from nearby properties. The proposed development would not interrupt views of the statue or materially alter how it is viewed. Given that the proposed development would continue the built form along the Esplanade, and the distinct and separate siting of the statue, the proposal would not be harmful to its setting.
43. The Council has referred to the effect of foul water from the proposed development entering the Solent and Southampton Water Special Protection Area and Ramsar. However, as I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
44. I note both the planning and appeal history of HC, referred to in the appeal documentation, and I have had regard to it insofar as it relates to the matters before me on this appeal. The appellants detailed comments about the history to their planning application together with the Council's handling of it are noted. However, they are not matters that are relevant to the planning merits of the appeal, these are matters between the parties.
45. It is acknowledged that the appellant undertook community engagement prior to submitting their application, which along with comments made in relation to the planning application provided support for the proposed development; including the improvements to the area because of the current appearance of HC; and because it would provide family houses. It has also been said that it would provide improvements for Lantern House by increased separation. These points are noted; however, the proposal is not the only way of addressing these issues. It has also been said in support of the appeal that the proposal would develop a brownfield site; use environmentally friendly and sustainable features. Be that as it may, these matters do not alter my conclusions on the main issues. I have also had regard to a range of issues raised by interested parties, including the effect of the proposal upon neighbouring occupiers living conditions and property rights, but I find the scheme to be unacceptable for the reasons already identified.

Planning Balance

46. For the reasons outlined above, I find that the proposed development fails to preserve or enhance the character or appearance of the CA. The proposal would also conflict with policies of the development plan, I give this harm significant weight in the planning balance of this appeal. I also concluded that the loss of the NDHA would be harmful, in terms of its historical contribution to Cowes social and cultural yachting heritage.
47. Whilst the complete loss of HC would be harmful to the significance of the QRCA, in terms of its effect upon the whole of the CA, I find the harm to constitute less than substantial harm owing to its effect being localised. Although, I consider the harm to the CA would be less than substantial, it is nonetheless a level of harm to which significant weight should be attached. Paragraph 208 of the Framework requires public benefits to outweigh such harm.
48. In this case, there would be a contribution of 2 no. dwellings to the Council's housing supply, from a small previously developed site in a well-connected area that would have good access to sustainable transport methods, improve the security of the site and reduce opportunities for anti-social behaviour. However, these benefits would be somewhat tempered by the loss of the existing 7 no. residential units, representing a net loss of 5 no. residential units. Although, I do recognise that the proposal would provide high quality and larger accommodation. There would also be economic benefits associated with the construction of the development, but on their own are also likely to be limited. Community benefits from future occupiers being members of local community groups could be a public benefit, although such contributions would likely be variable. I give the collective benefits limited weight.
49. Against this background, these collective public benefits are limited and do not outweigh the harm identified above to the significance of the designated heritage asset. Accordingly, there is conflict with the heritage protection policies of the Framework that protect designated heritage assets and policies of the development plan. In addition, there would be harm arising from the complete loss of the NDHA, and there are insufficient benefits to outweigh such harm.

Conclusion

50. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework. For the reasons given above, I conclude that the appeal should be dismissed.

A Hunter

INSPECTOR