



Appeal Decision

Site visit made on 4 April 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Appeal Ref: APP/X1355/W/23/3334662

Land at former filling station, A167, Nevilles Cross, Durham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Modobloc Nevilles Cross Ltd against the decision of Durham County Council.
 - The application Ref is DM/21/01789/FPA.
 - The development proposed is construction of 12no. townhouse dwellings to include undercroft parking, courtyard gardens, vehicular access, landscaped gardens, hard landscaped access/amenity areas, and soft landscaped perimeter treatment.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs has been made by Modobloc Nevilles Cross Ltd against Durham County Council and is the subject of a separate decision.

Preliminary Matter

3. The appeal site is within the Durham City Conservation Area (the CA). Accordingly, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) applies, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area bearing in mind the extent to which it would preserve or enhance the character or appearance of the CA.

Reasons

5. The appeal site is a vacant area of land bound to the west by the A167 Newcastle Road and to the east by the residential street of St Johns Road. It is bound to the north and south by residential properties, with residential uses predominating in the immediate surrounding area.
6. The CA covers a large area comprising Durham's historic city centre and much of its adjoining areas and neighbourhoods stretching outwards along key routes. The appeal site lies on the western edge of the CA. The adjacent properties on the east side of the A167 also lie within the CA, whilst the land on the opposite side of the A167 is outside of it.

7. The A167 forms the main vehicular route passing the site, connecting to other main roads via the crossroad junction to the south and over the nearby railway cutting to the north. The generally uniform and simply designed residential terrace of George Street faces the A167 to the south of the site. Further to the south near to the crossroad junction is more recent development designed in a traditional architectural style.
8. The crossroad junction connects to the A690, which is adjacent to the Grade II listed Neville's Cross. St Johns Road and the neighbouring residential streets to the east are accessed from the A690, which connects to the city centre. Properties in this area date from various periods and are of differing form and density, though the area retains a consistent verdant character throughout.
9. The submitted evidence indicates that the current A167 route was not formed until the 1950s, with St Johns Road previously forming part of the principal route extending to the north and over the railway cutting. Although the chalet bungalows to the north of the appeal site appear to be more recent, the evidence suggests most buildings on St Johns Road date from before the realignment. As such, the historic importance of the route is reflected in the stature and fine detailing of many of its residential properties dating from the various periods that it served this purpose, and it retains a similar verdant character to its neighbouring streets. Meanwhile, the differing form of development either side of the busy A167 means it provides a key visual and functional separation between the areas that are within and outside of the CA.
10. Insofar as it relates to the appeal site, the significance of the CA is predominantly derived from its relationship to the historic key routes stretching out from the city centre, and the traditional character of the predominantly residential verdant areas that have expanded around them.
11. The site is currently bound by close-boarded fencing to the A167 frontage. It rises steadily and its hard surface can be seen from certain viewpoints along the A167, clearly indicating it as a vacant brownfield site. It is understood to have remained largely unchanged since the removal of the former filling station in 2006.
12. The proposed development is formed of 2 blocks of terraced housing. When viewed from the A167, the western terrace would appear as a 4-storey building, with the uppermost floor being formed of squared off dormer window features against the main pitched roof of the terrace. Whilst its overall height would align with the chimney line of the terraced dwellings on George Street, it would sit on slightly lower ground. As such, the cumulative bulk and massing of the proposed development would appear significantly greater than the existing neighbouring development, and the substantial dormer window features would appear unduly dominant and uncharacteristic.
13. The submitted details of the western terrace, including the proposed elevations and a computer-generated image of the prospective view from the A167, show the building in isolation but do not fully illustrate its relationship to existing development. Whilst the terraced dwellings of George Street are of a simple design, they nevertheless form part of the CA and their scale and proportions reflect its wider characteristics. Although the proposed development would bear some similarities to the more contemporary residential development outside the CA on the opposite side of the A167, it would appear uncharacteristic,

disproportionate and incongruous against the neighbouring development on the east side of the A167 and the wider character of the CA.

14. The scale of the eastern terrace fronting St Johns Road would be comparably more modest. The proposal would be of a similar scale to much of the neighbouring development in the street. Although it would be taller than the neighbouring chalet bungalows to the north, it would be reasonably separated from these buildings by the vehicular access and would be of a comparable scale to the existing development opposite and adjacent to the south. I therefore find no specific harm to the character or appearance of the area or the CA in respect of the St Johns Road frontage.
15. My observations above are based on the plans on which the Council determined the planning application. I have also had regard to the amended P05 revisions noted in the appellant's statement of case, which do not alter my findings.
16. The appellant has submitted a viability appraisal based on alternative proposals for a 4-unit and 6-unit scheme, on the basis that Council policy documents have recommended the site as suitable for development of such scale. The appellant states that there is a need to achieve a greater density on the site for it to be financially viable, and I understand matters of viability were discussed and agreed between the main parties prior to the planning application being presented to committee.
17. Nevertheless, this matter is not explicitly referenced in the Council's reason for refusal, and even if I was to accept the conclusions of the viability appraisal, this would provide only limited weight that would not alter my previous findings.
18. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
19. Given my findings above, although I find no specific harm in respect of the St Johns Road frontage, in respect of the A167 frontage the development would appear disproportionate and incongruous, and accordingly it would fail to preserve or enhance the character or appearance of the CA, resulting in harm to its significance. The harm to the CA is less than substantial in this instance but nevertheless of considerable importance and weight.
20. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The appellant notes that public benefits would include introducing an active use to a longstanding vacant site which presently has an adverse effect on the character and appearance of the CA, and the provision of new housing to cater for a range of housing needs.
21. The site's present vacant situation offers little of aesthetic value to the area, and its redevelopment has the potential to improve matters in these terms as well as remediating any potential contaminated land. Nevertheless, given the

- permanence of such development, its visual effects must be carefully considered.
22. The proposal would deliver 12 new dwellings in a suitable and sustainable location, which would contribute to the Government's objective to significantly boost the supply of homes and also contribute to council tax revenues and local spending. However, the submitted evidence sets out that the Council has a healthy supply of deliverable housing sites, and the proposal would provide only a modest additional contribution of 12 units. Such benefits in this regard would therefore be limited.
23. Even considering the site's lengthy period of vacancy would be extended if the site remains undeveloped, given my findings above, the adverse effects of the scheme before me would not outweigh the benefits of redeveloping the site. Although the public benefits outlined above carry some weight in favour of the development, I do not find them to sufficiently outweigh the harm to the CA, given the great weight that must be given to its conservation.
24. For the reasons given above, the proposal would be harmful to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA, resulting in harm to its significance that would not be outweighed by public benefits. It would therefore conflict with Policies S1, D4 and H2 of the Durham City Neighbourhood Plan 2020 to 2035 and Policy 44 of the County Durham Plan – Adopted 2020. Together these policies seek, in respect of this issue, for development to harmonise with its context, for all new housing developments to be high quality, to conserve the significance of designated heritage assets, and for development proposals within or affecting the setting of conservation areas to sustain its significance. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Other Matters

25. The planning application was recommended for approval by the Council's planning officers but was refused by committee. This is an established democratic process and members of committee are not obliged to agree with the recommendation of officers. In making my decision I have had regard to all submitted evidence, including the report recommending approval of the application. The fact that members determined the application contrary to officer recommendation does not alter my conclusions on the main issue.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

P Storey

INSPECTOR