

Appeal Decision

Site visit made on 7 August 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2024

Appeal Ref: APP/L3815/D/24/3336276

28 Cavendish Street, Chichester, West Sussex PO19 3BS

- 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 Mrs Gilly Eustace against the decision of Chichester District Council.
 - The application Ref is CC/23/00555/DOM.
 - The development proposed is described as "to remove cement pebbledash from existing extension and garden wall - South Elevation; demolish 1970's walls in garden - South & East elevations; minor ground works; small extension (incorporating 2 windows, 1 door and 1 velux); and replace bi-fold gate with sliding gate".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was not accompanied by a listed building consent application, and I note some of the plans show internal works which would need consent through that procedure. Nevertheless, I am bound to consider the appeal which is before me.

Main Issues

3. The main issues are whether the proposal would:
 - preserve the listed building the appeal property is part of, and any of its features of special architectural or historic interest that it possesses; the effect of the proposal on the setting of nearby listed buildings; and the character and appearance of the Chichester conservation area; and
 - affect flood risk.

Reasons

Heritage assets

4. As the proposal is in a conservation area and relates to listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).

5. The appeal property is a two-storey end of terrace dwelling. It is situated at the corner of Cavendish Street which is a 'T' shaped road and links into Parchment Street and Washington Street creating a street grid around 2 blocks of terraced dwellings.
6. Many of these dwellings are listed and considered to have group value. They are not generally listed individually but have been separated into smaller groups which has led to over 25 separate Grade II listings. The appeal property forms part of one of these, specifically "28-31, Cavendish Street" (reference: 1026804) (the LB).
7. Due to the size and location of the proposed development I am satisfied it would not impact on the setting of many of the other listed buildings but could impact the setting of the rest of the terraced row the LB is part of¹, and the properties to its side² (from here on collectively known as 'the surrounding LBs').
8. The properties were built by 1835 and represent the 'new artisan cottages' developed in Somerstown as Chichester expanded beyond the city walls. According to the Chichester Conservation Area Character Appraisal, Somerstown is considered the only example of 'town planning' and this includes the streets in question. Therefore, the LB and surrounding LBs significance relates to their artisanal form and their historic importance in the expansion of Chichester.
9. This means they have also informed the character and appearance of this part of the Chichester Conservation Area (the CA), known as "Area 8: Old Somerstown, Oaklands Park and The University".
10. Although each grouping of terraced dwellings has slightly different features and detailing, their cadence and domestic proportions creates a homogeneity across the front elevations of the LB, the surrounding LBs, and properties on the adjacent streets. To the rear most properties have some form of single storey rearward projection. In the main these take the form of a modest 'L' shape, not an uncommon feature in properties of this age, but there are also clear and obvious examples of full width, rectangular projections.
11. The proposal seeks to reduce the length of the current 'L' shaped extension and square it off, along with various other works, to make better use of the small off road car parking space and rectify some non-traditional external wall finishes.
12. From the map progression provided by the appellant it appears that on the 1875 edition the appeal property and several properties within the terraced row did not have rearward projections, so it is unlikely the existing rear extension on the appeal property was part of its original form. I am satisfied that due to the map scale and detailed nature of its content, in all probability it closely represents the building forms at that time. However, it is noted the rear extension was in place when the property was listed.

¹ Grade II listed buildings known as 32-39, Cavendish Street (reference 1354290); 40-43, Cavendish Street (reference 1029805); 44-47, Cavendish Street (reference 1286939); 48 and 49, Cavendish Street (reference 1354291); and 50, Cavendish Street (reference 1026806).

² Grade II listed building known as 21A, 22-27, Cavendish Street (reference 1026803)

13. Accordingly, the emphasis the Council has put on the originality of the 'L' shaped rear extension and its consistency with the surrounding housing stock is not upheld by the map progression evidence.
14. Consequently, I am satisfied that the loss of the existing 'L' shape would not harm the historical form of the appeal property and associated LB. I am also satisfied the proposed reduction in length and squaring off would not require the significant removal of historic fabric.
15. However, the proposal would include a crowned roof with velux skylight which would be taller than the existing extensions ridge height and finish just below the upper floor window. This would increase the dominance of the rear extension when viewed from the rear or side and would further obscure the original simple rear elevation as well as the proportions of the original appeal property. Thus, causing harm to the appeal property and the LB it is part of.
16. It is noted that the replacement of the bi-fold gate would require the loss of some of the boundary wall. However, through on-site observation, the section of wall to be removed, although includes some historic fabric, has been repaired so much over the years I do not consider this to be to such a level as to constitute harm. Accordingly, the proposed gate and associated works to repair the boundary wall, would, in my mind, better preserve the original form of that wall than that which is existing. Therefore, this part of the proposal would have a neutral impact on the significance of the appeal property and the LB. This would also be the case for the proposed demolition of the 1970s wall and ground works. Nevertheless, this lack of harm does not overcome the harm to the LB identified in relation to the proposed rear extension.
17. Although the proposal would be visible from some of the surrounding LBs, its scale is relatively small in relation to the wider terrace, and when considered within the mix of rear extensions already in existence in the area, I do not find it would harm their setting, nor be so visually obvious as to harm this part of the CA's character and appearance.
18. Nevertheless, the proposal would still constitute less than substantial harm to the LB and this must attract considerable importance and weight because of the statutory requirement of section 66(1) of the Act. However, Paragraph 208 of the National Planning Policy Framework advises that this harm should be weighed against the public benefits of that proposed, including, where appropriate, securing its optimal viable use.
19. As the appeal property has been successfully used as a dwelling since it was built, its optimal viable use has been achieved and this is not at risk should the proposal be refused. It is appreciated the proposal would include the re-rendering of the appeal property with lime which would constitute a small public benefit as it would reinstate an original material. However, I only give this limited weight as such work could be carried out without the need of the extension so does not outweigh the harm identified.
20. I have noted the various examples of other extensions approved along Cavendish Street on other listed buildings as well as to the LB itself and appreciate the policy position has not changed greatly even for those approvals prior to the adoption of the current Chichester Local Plan. Nevertheless, by the very nature of listed buildings, each proposal must be

considered on its own specific merits as to its impact on the significance of that building, and these examples simply serve to show this. It should also not be forgotten that when there has been a reasonably high level of change to a heritage asset the remaining elements can become more important in relation to that asset's significance.

21. Therefore, for the reasons given above, the proposal would fail to preserve the LB the appeal property is part of. It would not therefore comply with Chichester Local Plan (LP) Policies 33 & 47 as far as they seek to conserve and enhance the historic environment, and respect and where possible enhance the character of the site. Nor would it comply with the Act or the Framework.

Flood risk

22. It is noted that the original application did not include a Flood Risk Assessment and that the main parties disagree as to whether the appeal property is within Flood Zone 2. However, it is noted that within appendix 3 of the appellant's statement of case, the flood risk details from the Environment Agency (EA) states the appeal site and area around it are at high risk of surface water flooding.
23. Although the lead local flood authority has not commented, I am satisfied the proposed flood resilient design measures would be acceptable as they reflect the EA's guidance for householder extensions, and adherence could be conditioned.
24. I am also satisfied that the proposal would not materially increase the risk of flooding elsewhere as the built form removed would be comparable to that being proposed in terms of water run-off. Nevertheless, details of how surface water would be dealt with could be conditioned due to the small scale of that proposed.
25. Accordingly, any potential flood risk could be satisfactorily mitigated against, and the proposal would comply with LP Policy 42 insofar as it seeks development in areas of flood risk to be safe, and minimise any net increase in surface water run-off.

Other Matters

26. The appeal site falls within the Chichester & Langstone Harbour Special Protected Area (SPA) and within the zone of influence for the Singleton and Cocking Tunnels Special Area of Conservation (SAC). Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) require an appropriate assessment to ensure that the development would not adversely affect the integrity of the SPA or SAC.
27. The main pressure on the SPA is that from recreation. However, as the proposal would not represent an increase in residential capacity, I am satisfied the proposal would not affect the integrity of the SPA.
28. The SAC provides specialist habitats for bats and development within the zone of influence may impact the commuting and foraging patterns of that protected species. Nevertheless, a preliminary bat survey was submitted and provides satisfactory mitigation for any potential harm to bats, which could be secured by condition.

29. Therefore, I agree with the Council that the proposal would not cause harm or could suitably mitigate any harm the proposal might have in relation to the SPA and SAC.

Balance and Conclusion

30. Whilst I have found for the appellant in relation to the second main issue and appreciate the proposal could be acceptable in relation to the SPA and SAC. These would constitute a lack of harm and thus, by definition, are incapable of weighing against the harm I have found regarding the first main issue.

31. Consequently, the appeal scheme would conflict with the development plan, as a whole, and there are no material considerations worthy of sufficient weight, including the Framework, which would indicate a decision otherwise. The appeal should, therefore, be dismissed.

RJ Redford

INSPECTOR