



Appeal Decision

Site visit made on 6 January 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2025

Appeal Ref: APP/U3935/W/24/3353526

Prospect Court, 60 Prospect Place, Old Town, Swindon, Wiltshire SN1 3LJ

- 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 Mr Phillip Brett of Brett Property against the decision of Swindon Borough Council.
 - The application Ref is S/24/0664/RACH.
 - The development proposed is the “change of use” from former dance studio (sui-generis) + erection of additional storey to form 6 no. 1 bedroom flats (class C3) + associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit the numbering of paragraphs has changed. No one would be prejudiced by the changes, and the latest version of the Framework has been referred to in the decision.
3. Prospect Court is within the Prospect Place Conservation Area, and Christ Church is a Grade II* listed building. As required by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) special regard has been paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.
4. There is no dispute between the main parties regarding the change of use of the building from a community use into dwellings. The appeal has been considered on that basis.

Main Issues

5. The main issues in this case are:
 - The effect of the scheme upon the character and appearance of the area, having particular regard to whether it would preserve or enhance the character or appearance of the conservation area, and also whether it would preserve the setting of a nearby listed church; and
 - Whether the scheme would provide acceptable living conditions for future occupiers, having particular regard to internal and external space, outlook and noise.

Reasons

Character and Appearance

6. Prospect Court is a two storey rendered and flat roofed building positioned to the rear of the contiguous row of shops and commercial buildings along Victoria Road. The access road to these properties is to one side and also to the rear of the appeal building, whilst to the other side of it is a public car park. Formerly used as a dance studio, the building is now vacant, with its windows and doors boarded over.
7. The car park and appeal building are within the Prospect Place Conservation Area, a distinctive characteristic of which is the numerous, mostly two storey terraced houses that form long, continuous rows either side of narrow streets. As identified in the Prospect Place Conservation Area Appraisal and Management Plan (2008) the early nineteenth century street layout is a feature of the area, and this, along with the repeated use of stone and brick, and the similar sizes, styles, and heights of the terraces, creates a cohesive character and appearance. This harmony and consistency are part of the significance of the conservation area, as well as forming a distinct local identity that contrasts with the bustling dynamic of the mixed uses found along Victoria Road.
8. The car park forms a spacious, open contrast to the dense grain of the terraces and the continuity of the buildings along Victoria Road, with the appeal building creating a defined edge between them. Despite its flat roofed utilitarian appearance, the two storey form of the building has a recessive impact within the area, being subservient in size to that of the nearby Broadcasting House and Prospect Quarter. The modest size and plain form of the building is seen against the backdrop of the contiguous, eclectically varied rears of the properties along Victoria Road. As such the utilitarian appearance of the building does not overly dominate the area, thereby having a neutral effect upon the character and appearance of the conservation area.
9. Christ Church is a dominating landmark building. The combination of the position of the church upon high ground along with the imposing height and form of the spire is such that it is the principal focal building within the area. Its spire can be seen from long distances away, including from as far away as King William Street. The impact of this wide-ranging prominence is an integral element of the setting of this listed church, and one which reflects its social and community importance.
10. The provision of a third floor to Prospect Court would give it a strong vertical emphasis, with the resultant building having a tall and narrow appearance that would appear conspicuously intrusive in an area of mostly two storey terraces. The increased bulk of the building would make it comparable in height to Prospect Quarter and Broadcasting House, and rather than have a modest utilitarian appearance, the building would appear intrusively prominent. The presence of different render colours would reduce the visual monotony of the walls, but despite this the building would have a tall, rigid mass that would be at harmful odds with the more eclectically formed rears of the buildings along Victoria Road.
11. The use of timber detailing and corten panels would serve to harmfully exaggerate the height and bulk of the building. Neither of these materials, nor the use of grey upvc windows, would harmonise with the repeated palette of traditional materials found within the residential area. Both Prospect Quarter and Broadcasting House

also have a more conventional form and range of materials than that proposed. Whilst there are a variety of residential and commercial uses within the area, many of the buildings including the rear of those along Victoria Road are two storey in height, and composed of traditional materials. In such a context the size, height, and bulk of the building as well as the introduction of detailing and materials that would have little reference to their surroundings, would all make the building unacceptably conspicuous. The building would become an intrusive focal point within the area, and rather than have a neutral impact upon the conservation area, it would have a discordantly distracting one.

12. The prominence of the building would also erode the dominance of the church. The height and appearance of the building would not only draw the eye but would obscure views of the spire, particularly experienced when approaching it from the west. The spire has been designed to dominate, forming a focal point that can be seen from long distances away, and this impact is part of its setting. The extended building would not only unacceptably conceal the prominence of the spire from certain views, but in doing so would thereby reduce the community and social impact of the church and its connectivity with the nearby residential area.
13. The Framework requires that when considering the impact of development on the significance of designated heritage assets, great weight should be given to its conservation. For the reasons given above the scheme would harm the character and appearance of the conservation area and also the setting of the listed church. These harms would be less than substantial as the scheme would affect only part of the conservation area and setting of the church, although such harms would be of considerable importance and weight. Under such circumstances, the Framework requires that where development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
14. The Council cannot demonstrate a five year housing land supply, and the scheme would bring a vacant building into active use and provide six homes. These would be modest public benefits of the scheme, as would the social and economic benefits to the area arising from the presence of future occupiers. Nevertheless, these modest public benefits, including when considered cumulatively, would not outweigh the significant harms to the conservation area and to the setting of the listed church.
15. For these reasons the scheme would unacceptably harm the character and appearance of the area, and would neither preserve nor enhance the character or appearance of the conservation area, nor preserve the setting of the listed church. Such harms would be contrary to the Act and also with objectives of the Framework. There would also be conflict with Policies SD1, DE1 and EN10 of the Swindon Borough Local Plan (2015) (LP), as these seek, amongst other things, high quality design, that respects, conserves and / or enhances the built and historic environment, and that which conserves and where appropriate enhances the significance of a designated heritage asset and their settings.

Living Conditions

16. The Council has no policy specifying internal space standards albeit the Residential Design Guide (2016) draws attention to minimum areas relative to the number of bedrooms as set out in the Nationally Described Space Standards. In addition, LP Policy DE1 seeks amongst other things, a high standard of design

that includes the space provided for future occupiers. Although the flats are described as being for one person, given their size and layout, they could provide homes for two people, particularly as some of those proposed have what are described as dressing rooms. Whilst the flats would provide a single person with a home with sufficient space for day-to-day living requirements, the occupation of the flats by two or more people would result in unacceptably cramped and constrained living conditions.

17. There would be no outdoor amenity space provided for future occupiers, albeit internal bin and cycle storage areas would be provided. The absence of any such space precludes any opportunity for outdoor relaxation and day to day activities, such as clothes drying. In addition, the outlook for future residents would be directly onto the carpark, onto Prospect Place, and onto the road serving the rear of the buildings along Victoria Road. In particular, occupiers of the ground floor flats would have an outlook onto either parked cars or tall walls. Not only would such an outlook be oppressive, but users of the car park and access road would have close and direct views into the windows of the ground floor flats. Future occupiers would experience an unacceptable and intimidating loss of privacy as well as frequent disturbance.
18. Furthermore, future residents would experience unacceptable levels of noise and disturbance not just from the passersby and vehicular traffic, but also from the multiple air conditioning and extraction units attached to nearby buildings. The appellant's Acoustics Consultancy Report (2023) suggests mitigation through measures that include plant enclosure. Even with the provision of double glazed windows with trickle vents, the close proximity of future residents to so many units would have a significant adverse impact upon their living conditions. Moreover, none of the units are within the control of the appellant so as to provide and maintain plant enclosure. Having regard to this and the number of units present, conditioning mitigation measures could not be relied upon to protect future residents for the lifetime of the development. The Framework makes it clear that development should avoid noise that would give rise to significant adverse impacts upon health and quality of life. This is such a case as future occupiers of the flats would experience constant and unacceptable noise and nuisance levels and particularly so if they opened their windows.
19. For these reasons the scheme would not provide future occupiers with acceptable living conditions, and the suggested conditions would not overcome these fundamental harms. There would be conflict with LP Policies SD1, DE1 and HA1, as these seek, amongst other things, high quality design, that reflects the character of the surrounding area, including with regard to space, privacy, outlook, noise, and disturbance.

Other Matters

20. Local residents have raised a number of other matters, including the presence of bats within the building, and that parking problems within the area would be exacerbated. However, following the findings on the main issues, there is no need to consider these matters further.

Planning Balance and Conclusion

21. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the

expense of other considerations. Irrespective of the Council's housing land supply shortfall, policies within the Framework that protect assets of particular importance, in this case designated heritage assets, provide strong reasons for refusing the scheme.

22. There would be conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR