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## Appeal Decisions

Site visit made on 12 June 2020

**by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 June 2020**

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### **Appeal A: APP/L3245/W/19/3221461**

#### **Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Cory Irvin-Wright against the decision of Shropshire Council.
- The application Ref 18/03375/FUL, dated 20 July 2018, was refused by notice dated 9 October 2018.
- The development proposed is described as - "Application under section 73A of the Town and Country Planning Act 1990 for erection of a sixth floor to provide a roof top conservatory with glazed balustrading (amended description)".

**Summary of Decision: The appeal is allowed and planning permission is granted.**

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### **Appeal B: APP/L3245/C/18/3216404**

#### **Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ**

- The appeal is made under section 174 of the 1990 Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Cory Irvin-Wright against an enforcement notice issued by Shropshire Council.
- The enforcement notice was issued on 17 October 2018.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL on the Land.
- The requirements of the notice are:
  - I. Remove from above the rooftop of the building (approved under planning application reference 14/00582/FUL) and entirely from the Land, the conservatory, glazed balustrading and parts thereof;
  - II. Remove from the Land all building materials arising from compliance with (I) above and make good the roof top surface to a condition had the breach not taken place and in accordance with planning permission 14/00582/FUL.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 Act as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

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### **Preliminary Matters**

1. The Planning Inspectorate initially made arrangements for this appeal to be determined following an 'accompanied' site visit. That event could not take place given the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and related guidance. The file has subsequently been reviewed to consider the optimal procedure for the appeal.

2. It appeared that the appeal could be determined with an 'unaccompanied' site visit without causing prejudice to any party. I conducted the site visit from public viewpoints and I am satisfied I understand the nature of the site, given the matters in dispute.
3. The Council has asked that I correct the enforcement notice to amend any reference to planning permission 14/00582/FUL to instead refer to planning permission reference 14/00582/FUL as varied by 17/03177/VAR and 19/00335/VAR. It is important that the allegation is correct since this forms the basis for my assessment of the deemed planning application. Hence, I agree it is necessary to correct the allegation. I am satisfied I can make this minor correction without injustice. As I am quashing the notice, a consequential correction to the requirements is not necessary.
4. I have taken the address in Appeal B from the enforcement notice, as this applies to the deemed planning application. I note this differs from that of Appeal A, which is taken from the Council's decision notice and the appeal form. However, the appeals both relate to the same site and development, which is clear from the documents submitted.

## **Appeal A**

### **Appeal B on ground (a) and the deemed planning application**

#### *Background and Main Issues*

5. The terms of the deemed planning application are derived from the corrected allegation. The wording differs slightly from the amended description of development for the planning application but the meaning is the same. Hence, planning permission is sought for the erection of a roof top conservatory and the installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR.
6. The main issues are: (i) the effect of the development on the character and appearance of the area, in particular the Shrewsbury Conservation Area and non-designated heritage assets in the vicinity; (ii) whether the development preserves the setting of nearby listed buildings and; (iii) the effect of the development on the living conditions of adjoining occupiers with regard to outlook and light.
7. The site is located beyond the immediate town centre on land close to Shrewsbury Castle and the station. It lies between two buildings; Cambrian House to the north is a modern former office building, which has been converted to apartments with the addition of a sixth floor. I understand this development received local awards for its contribution to the enhancement of the built environment of Shrewsbury.
8. Chronicle House, immediately to the south, is a three-storey, stone-faced and traditionally designed building. It has been converted to residential use on the upper floors with commercial uses at street level. The building dates from 1927 and is considered to be a non-designated heritage asset within the Conservation Area. The Council explains the building was purpose built to be occupied by the Shrewsbury Chronicle and was designed by local architects Shayler and Drake. Its significance, therefore, results from its design, architectural features and historical associations.

9. The appeal site was formerly a parking area between Cambrian House and Chronicle House and is now occupied by a residential building, known as Chester House. The appellant explains that the design resulted from lengthy dialogue with the Council in order to achieve the highest architectural standards. The approved building comprises five-stories, with the upper floor being fully glazed and stepped back to enhance design detailing. The building has been further developed by the unauthorised addition of a largely glazed roof structure with balustrading, which forms an extension to the uppermost apartment. This sits towards the southern end of the roof, closer to Chronicle House.

#### *Character and Appearance*

10. The appellant's heritage impact assessment highlights the juxtaposition of the historic townscape with contemporary commercial and residential development. It characterises the area as having contrasting building forms, supported by the imaginative use of materials which creates visual interest. The historic development sits comfortably among more modern architecture, and there is a complementary relationship which brings a distinct character and quality to the townscape. I consider that the significance of the Conservation Area in this locality can be attributed to the development layout and the quality of buildings, which evidence the Town's early mediaeval importance and its continued growth throughout later periods of prosperity, up to the present day.
11. The Council has drawn my attention to specific buildings which, in addition to Chronicle House described above, are considered to be non-designated heritage assets. Cleveland House is a red-brick former temperance hotel dating from 1885. It sits to the south of the appeal building, at the junction of Chester Street and Smithfield Road. The building comprises four-storeys and incorporates a distinctive 'belvedere' forming part of the roof. Other 19th Century buildings in the row opposite the station include the three-storey Corbett Building, defined by its Italianate detailing and polychromatic brick; the painted brick Station Hotel, and the more modestly scaled Albion Vaults. The significance of these buildings arises from their age and architectural detailing, and their contribution to the quality and character of the street scene at this gateway to the town centre.
12. The unauthorised development or "sunroom" is widely visible due to its siting on top of the five-storey Chester House. In views from the Dana footpath, below the Castle, the whole of the fifth floor of Chester House can be seen over the roofs of the Station Hotel and adjoining buildings. The sunroom is prominent, but it is seen within the context of the host modern building and the neighbouring Cambrian House, which it reflects in terms of its design and materials. As such, it does not detract from the traditional buildings facing the station forecourt. From the front of the station building, the sunroom hovers over the pediments of the Station Hotel and Chronicle House but is clearly associated with the building to the rear and does not affect the appreciation of the architectural detailing of these non-designated heritage assets. The glazing reduces the impact of the building, and I do not consider that it dominates views or otherwise harms the significance of the buildings in the foreground.
13. From Chester Street the structure is barely visible, although it can be seen in views from the south. However, from this angle, the sunroom and balustrading are again seen in the context of the modern buildings and do not stand out as

- incongruous features given the backdrop. In views from further along Castle Gate the structure appears on the rooftop next to the belvedere of Cleveland House, a feature which contributes to the significance of this non-designated heritage asset. However, the facing elevations are glazed and the contemporary structure is a recessive feature of the skyline. It does not compete with the roof of Cleveland House but is a modern feature alongside, serving a similar function as the historic belvedere.
14. In views from the road junction to the south-west, the sunroom is prominent and can clearly be seen alongside Chronicle House as it appears behind the gable of a modern residential building. Again, the use of glazing lessens the impact of the structure. It does not seek to replicate the traditional architecture in the vicinity but appears as a modern addition that sits alongside historic development which, in my judgement, forms a complementary relationship.
15. In wider views from the Butter Market, the sunroom is evident but is not overly prominent. Similarly, the structure can be seen from the footbridge over Smithfield Road, although it does not stand out as a discordant feature. The foliage along the river provided screening from the Frankwell car park at the time of my site visit, so I have relied on the Council's photographs. Nonetheless, I find the sunroom to be acceptable in more distant views of the skyline due to the mix of architecture that forms the setting, and its design and materials.
16. The Council explains that the height of Chester House, with a clean and unadorned roofline and glazed upper-storey, was considered appropriate in its context between the taller, modern Cambrian House and the more modestly scaled Chronicle House. I appreciate the design ethos but the addition of the sunroom adheres to this concept through its reduced scale and use of glazing. As such, it reflects the architecture of Chester House and does not detract from the buildings either side.
17. I find that the development is a modern addition within an area of the town characterised by its eclectic mix of traditional and historic buildings. It does not stand-out as an incongruous feature in this setting thus preserving the significance of the Conservation Area. Nor does it harm the significance of the non-designated heritage assets, identified above, as their age and architectural detailing, and their appreciation within the streetscene, are unaffected.
18. To conclude on this issue, I consider that the development preserves the character and appearance of the Shrewsbury Conservation Area and the significance of non-designated heritage assets in the vicinity. It complies with Policies CS6 and CS17 of the Shropshire Council Core Strategy (2011) and Policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev) Plan (2015) which, among other things, seek to promote high quality design that respects and enhances local distinctiveness while also protecting heritage assets. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 192 and 197 of the National Planning Policy Framework (the Framework).

#### *Setting of Nearby Listed Buildings*

19. The remains of Shrewsbury Castle are a grade I listed building within a Scheduled Monument. The remains date from the late 12<sup>th</sup> Century and include

various later modifications. The significance, insofar as relevant to the matters before me, can be attributed to their age and historical associations, the historical record provided by the remaining built fabric, and later alterations, and the Castle's imposing presence within the town. The building is sited at a high level, reminiscent of the site's early development as a motte and bailey. Hence, the setting of the listed building is not confined to its immediate surroundings but extends over the area in which it is experienced. As explained, part of the significance of the heritage asset stems from its imposing presence and defining influence, in addition to its development and historical associations. The setting contributes positively to its significance in that it enables the Castle to be experienced from different viewpoints within the Town.

20. Shrewsbury Station is a grade II listed building dating from 1849 with later extensions. Its significance can be attributed to the age, architectural style and historical role as an early-Victorian station building. The setting contributes to the significance as it expands the area in which the station buildings can be appreciated, in particular along Castle Foregate and Smithfield Road.
21. There are numerous other listed buildings to the south of the appeal site, along Castle Gate. I have limited information but judge their significance to be associated with their age and architecture, which reflects that of the 19<sup>th</sup> Century.
22. The appeal building lies to the north of the Castle, in relatively close proximity. In certain views, in particular from the cricket ground across the river, the castle crenellations can be seen in the skyline in the same panorama as the sunroom. However, the wider context includes numerous other modern buildings of varying architectural quality. The Castle is elevated above road level which, combined with its obvious age and defining built form, enables the remaining built elements to retain their imposing presence despite the later development in the vicinity. The sunroom appears as a minor modern addition to the skyline that can be seen alongside the Castle but does not impinge on its setting. Consequently, I find that the development preserves the setting of this designated heritage asset of national importance.
23. As set out above, the sunroom is visible from the station forecourt and surrounding roads. However, it does not compete with the station building due to its scale, separation and intervening buildings. As such, the setting of the listed building is preserved. Similarly, the listed buildings to the south along Castle Gate are some distance from the development and their setting is more closely related to their street frontages. The sunroom does not affect their settings, or the contribution the settings make to the buildings' significance, as it bears a closer relationship to the development in its immediate vicinity.
24. Given the above, I conclude that the proposal would preserve the setting of the listed buildings. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 192 of the Framework and would not conflict with Policies CS6 and CS17 of the Core Strategy or Policies MD2 and MD13 of the SAMDev Plan that seek, among other things, to protect heritage assets.

### *Living Conditions*

25. The reason for refusal cites an overbearing impact and loss of light to the rear of properties in Castle Foregate. In its appeal statement, the Council accepts that the sunroom would not have a significant adverse impact in terms of shading and loss of light. Nonetheless, it maintains the development would have “some impact” on light levels and would impact on the outlook from the upper floor, rear windows of the Albion Vaults Public House, which has recently been extended and renovated. In response, the appellant has submitted an updated Shade Cast Appraisal (March 2020).
26. I understand the windows in question serve living accommodation over the public house. It is apparent from the evidence before me that the outlook and light levels from these windows were already significantly affected by the development of Chester House, as approved. The addition of the sunroom, which although only partially glazed to the relevant elevation, would not have a material adverse effect on outlook or light given its comparative size and siting. It is unlikely that the sense of enclosure already experienced would be significantly exacerbated.
27. To conclude, I find that the development would not have an adverse effect on the living conditions of adjoining occupiers with regard to outlook and light, in accordance with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan, which seek to ensure development contributes to the health, safety and wellbeing of communities while safeguarding residential amenity. The development accords with the Framework insofar as it seeks to secure a high standard of amenity for existing and future residents.

### *Other Matters*

28. The Council has requested a condition to require the glazing to the rear of the sunroom to be fitted with obscure glass. There is no reason given for the condition but I assume it is to protect the privacy of neighbouring occupants. The height of the development and its proximity to the rear of the public house is such that views would be downwards oblique and likely to be limited. In addition, similar views may be obtained from the approved rooftop garden. As such, it has not been shown that the suggested condition is necessary.

### **Conclusions**

29. Appeal A: For the reasons given above I conclude that the appeal should be allowed.
30. Appeal B: For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the corrected notice. The appeal on ground (f) does not, therefore, need to be considered.

### **Formal Decisions**

31. Appeal A: The appeal is allowed and planning permission is granted for the “erection of a sixth floor to provide a roof top conservatory with glazed balustrading” at Land adjacent Chronicle House, Chester Street, Shrewsbury SY1 2DJ in accordance with the terms of the application, Ref 18/03375/FUL dated 20 July 2018, and the plans submitted with it.

32. Appeal B: It is directed that the enforcement notice is corrected by the addition of the words "as varied by applications reference 17/03177/VAR and 19/00335/VAR" after *planning application reference 14/00582/FUL* in paragraph 3 of the notice.
33. Subject to this correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a roof top conservatory and installation of glazed balustrading on top of the building permitted under application reference 14/00582/FUL, as varied by applications reference 17/03177/VAR and 19/00335/VAR, on the Land at Car Park, 6 Castle Foregate, Shrewsbury, Shropshire SY1 2DJ referred to in the notice.

*Debbie Moore*

Inspector