



Appeal Decision

Site visit made on 5 March 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/L3245/W/23/3326193

13-17 High Street, Whitchurch, Shropshire SY13 1AX

- 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 Russell Harrison against the decision of Shropshire Council.
 - The application Ref is 22/03724/FUL.
 - The development proposed is Renovation and extension of existing two storey retail unit, to provide a retail arcade at ground floor level and 9 no residential apartments to the existing first floor and a two story extension to the rear of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The Council has raised an additional concern in their Statement of Case about the lack of a bedroom window in one of the proposed apartments. Whilst this has not been raised previously, the appellant has had an opportunity to provide comments on the matter. My decision will reflect these concerns and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. The Council have also provided a copy of a recent appeal decision¹ that was issued after the appeal was submitted. Given that the decision could not have been submitted with the Council's Statement of Case it was accepted as late evidence. The appellant was given the opportunity to comment on the decision in relation to this appeal. As such I am satisfied that the parties would not be prejudiced by this approach.
5. The appeal site lies within the Whitchurch Conservation Area (CA), and there are also a number of listed buildings within the area. In particular, the site is located adjacent to the Whitchurch Heritage Centre, which is a Grade II listed building. The main parties have identified harm to the CA and the setting of the WHC. These harms did not form a reason for refusal but Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 apply

¹ Appeal Ref: APP/L3245/W/23/3325077

to the appeal. Hence, given my statutory duties it is necessary for me to undertake my own consideration of any effects to the setting of listed buildings and the character and appearance of the CA. Therefore, the effects on the designated heritage assets form a further main issue for the appeal.

Main Issues

6. The main issues are:

- the effect of the proposal on the living conditions of the neighbouring occupiers of a flat known as The Bakehouse, with particular regard to privacy;
- whether the proposal would provide acceptable living conditions for future occupiers, with particular reference to outlook;
- whether the proposal would preserve or enhance the character or appearance of the CA and the setting of adjacent listed buildings, and in the event that any harm is identified, whether that harm would be outweighed by any public benefits of the proposal; and
- the effect of parking associated with the proposal on local parking stress and the living conditions of nearby residential occupiers, with particular reference to disturbance.

Reasons

7. The appeal site is located within Whitchurch town centre and is currently occupied by a two storey commercial building that fronts on to High Street. The ground floor of the building has an active shop front and associated storage at first floor. The rear of the building includes flat roof extensions and a large service yard accessed via St Mary's Street.
8. A retail arcade comprising seven units operates at ground floor. Residential apartments are proposed on the upper floors, with a large two storey extension, which would have a contemporary design, proposed to the rear. The extension would provide additional residential apartments at ground floor and first floor.

Living conditions of neighbouring occupiers

9. A large first floor dormer style window is proposed within the two storey extension. The proposed window is large and would be the main window to an open plan dining, lounge, and kitchen of an apartment. The window would have an outlook towards a number of windows in the rear elevation of a neighbouring building known as, The Bakehouse.
10. The Council have identified that a first floor window in the rear elevation of The Bakehouse, serves a residential flat. The parties have been unable to establish what internal rooms the window currently serves, but due to the size and position of the window, it is likely to serve a habitable room of the flat.
11. While I acknowledge that the appellant suggests that the distance between the two windows is 13 metres, the juxtaposition of the two facing windows would allow clear intervisibility between the two. Consequently, due to the size and position of the proposed window, it would result in an unacceptable loss of

- privacy to the occupiers of the residential accommodation within The Bakehouse.
12. The appellant has suggested that the dormer window could be fitted with obscure glazing. However, the window serves a habitable room and would not be a satisfactory solution in terms of the outlook from these windows. In addition, there is a suggestion that the design of the proposed dormer window could be amended to avoid a direct outlook from the window towards the neighbouring first floor window. While a sketch plan has been submitted, full details and elevation plans, have not. Therefore, a proper assessment is not possible. In any event, as I am required to do, I have determined the appeal on the plans before me.
 13. An elevated pedestrian walkway is proposed that would serve a number of the proposed apartments. The walkway would also be in close proximity to the first floor window in the rear elevation of The Bakehouse. The low level wall would allow future occupiers of the apartments to look into that first-floor window. Views into the window would be unrestricted and would result in an unacceptable loss of privacy to the occupiers of the flat.
 14. The appellant has again suggested that various design measures could be incorporated into the scheme, above the low level wall, which could prevent overlooking of neighbouring windows from the walkway. Whilst this maybe the case, full details and plans to show the position, size and appearance of an alternative design have not been submitted. Therefore, on the evidence before me, I cannot be certain that an appropriate design could be achieved. Nevertheless, as I am required to do, I have determined the appeal on the plans before me.
 15. I acknowledge that the appeal site is located in a town centre location whereby the interfacing distances between windows of residential accommodation may be less than in other areas. I also note the examples provided by the appellant of separation distances between properties on St Mary's Street and St John's Street which have windows directly onto pavements used by the public. However, I am mindful that the proposed private walkway could attract future occupants to stand on the walkway for longer periods of time compared to a public street. In particular, this part of the walkway has an outlook over the proposed public realm area which would increase the likelihood of future occupiers standing on this part of the walkway to enjoy the outlook. This could be for extended periods of time, which would be different to pedestrian movements on a street. Therefore, these examples have not eased my concern that harm would arise in this case.
 16. Consequently, for the reasons given, I conclude on this main issue that the proposed development would cause unacceptable harm to the living conditions of the occupiers of The Bakehouse, with particular regard to privacy. Therefore, the proposal would fail to accord with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS), Policy MD3 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev), and the Framework, which together and amongst other things, seek to ensure that new development respects the living conditions of current and future occupiers.

Living conditions of future occupiers

17. The Council identify in their appeal statement that the only bedroom to one of the apartments appears to be served by a roof light only. The appellant has subsequently confirmed that the bedroom is only served by a roof light and no other windows are proposed for the bedroom.
18. The roof light would provide natural light to the bedroom but the size and height above floor level would offer a limited and unsatisfactory outlook for its future occupants.
19. In addition, the only windows that serve the open plan dining, lounge, and kitchen of that apartment would also face towards and be in close proximity to a solid wall of The Bakehouse building. Therefore, the outlook from habitable windows of the apartment would be oppressive, and the juxtaposition between the windows and the solid wall would be unsatisfactory for the future occupants, even when taking into account the town centre location.
20. A kitchen of an adjoining apartment would also be served only by a roof light. However, the bedroom and lounge area would have windows that have an outlook over High Street. Therefore, I am satisfied that, overall, the apartment provides satisfactory outlook and living conditions for future occupants.
21. Given the above, I conclude on this main issue that the proposal fails to provide satisfactory living conditions for future occupiers with particular reference to outlook. As such, the proposal would conflict with Policy CS6 of the CS, Policy MD3 of the SAMDev, and the Framework, which together and amongst other things, seek to ensure that new development respects the living conditions of current and future occupiers.

Heritage Assets

22. The Framework states that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. It also advises that any harm or loss to designated heritage assets should require clear and convincing justification.
23. The significance of the CA, from my assessment of the evidence and the site, is primarily derived from the many buildings of architectural and historic interest, some of which are grade II listed, in a vibrant town centre setting, particularly along High Street.
24. The buildings are primarily terrace buildings, arranged in a dense form, with well-established and consistent building lines. The scale and mass of buildings is varied but they have simple built profiles, staggered roof lines and shallow pitched roof spans, which have a uniform, historic aesthetic.
25. The appearance of buildings along High Street and St Mary's Street range in age and architectural style, with very few examples of modern buildings. The building materials are homogeneous, with a prominence of painted timber framed frontages along High Street. Buildings along St Marys have a prominence of facing red brickwork, painted brickwork, and render, with no other variances. Windows and doors on buildings are symmetrically arranged and are broadly consistent in terms of their vertical shape. When combined, these features are an attractive component of the CA and contribute towards its significance.

26. The appeal site fronts on to High Street and the ground floor has a large shop front, with the first floor characterised by a patterned timber frame façade, which includes a pitched gable feature above a bay window. The building, with its attractive front façade, contributes to the special interest of the CA.
27. The rear of the building primarily serves as a parking area and service yard for the retail uses of the ground floor. The rear of the building includes a number of unattractive functional extensions, and the open yard area allows uninterrupted views of the rear of the building from within the CA. As such, the unsightly appearance of the rear of the building has a limited contribution to the character and appearance of the CA.
28. Many of the neighbouring listed buildings front onto High Street, including 19 and 19a Bluegate, 'The Old Shop', 9 High Street and 25 High Street. The Whitchurch Heritage Centre (the Heritage Centre)², is located adjacent to the rear of the appeal site. According to its listing entry, it is a former Wesleyan chapel, which dates to the eighteenth century. It is a two storey building with a rendered façade and a hipped slate roof. The Heritage Centre derives a great deal of its significance from its appearance and its historic interest as a former chapel. The roads and open areas around the building allow its historic character and appearance to be appreciated. Therefore, those spaces make a meaningful contribution towards the building's setting, and the significance it derives from it.

Effect to Heritage Assets

29. The proposal would have an expansive footprint that projects significantly from the rear elevation of the host building. It is made up of a series of interconnecting structures, which vary in height, depth, and massing, while having a combination of flat, pitched, and asymmetrical roof profiles. The combined footprint and scale of the proposal would result in a building that would be highly dominant. Moreover, the various elements of the structure would appear noticeably at odds with the more uniform scale and massing of buildings close by.
30. Where the proposal addresses St Marys Street and St Johns Street, it would have twin gables that would sharply contrast with the traditional frontage dwellings opposite, as these mainly have ridge lines parallel to the street.
31. The shape, style, arrangement, and the frame colour of windows is somewhat disjointed when viewed within the context of the more uniform and symmetrical window placements in the buildings nearby, particularly those along St Marys Street. The mix of materials on the elevations of the proposed development also appears inharmonious and fussy. In addition, the use of protruding brickwork and banding is at odds with the more uniform bonding and patterns found on adjacent buildings that have brick exteriors.
32. The contemporary design would contrast harmfully with the scale, mass, and appearance of the existing buildings along St Marys Street and St Johns Street. Therefore, I do not consider that the replacement of the existing extensions and the redevelopment of the site with a significantly larger, contemporary, and visually dominant building would preserve or enhance the character and

² List Entry Number: 1055955

appearance of the CA. Consequently, I give this harm considerable importance and weight.

33. The improvements to the shop front at ground floor would not harm the setting of the neighbouring listed buildings that front High Street. Likewise, the proposed extensions at the rear of the building, despite being substantial, would not be viewed within the context of High Street and the setting of the listed buildings would be preserved.
34. In contrast, the siting and scale of the proposed development would result in the Heritage Centre being hidden from certain viewpoints along St Marys Road. However, I note the comments of the Council's Conservation Officer, as well as historic mapping, which indicates that the setting of the Heritage Centre has changed over time, and the land was previously densely covered with buildings which were located at the back edge of the pavement. The proposed development would re-introduce buildings on to the land and I am satisfied that the juxtaposition of the proposals, its form and position, would preserve the aspects within the listed Heritage Centre's setting that contribute towards its significance.

Public Benefits and Findings

35. The Framework advises at paragraph 205 that great weight should be given to the CA's conservation. Significance can be harmed or lost through alteration of the heritage asset. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. For the reasons set out above, I consider that harm has been caused to the significance of the CA.
36. Accordingly, while less than the 'substantial harm' referred to in paragraph 207 of the Framework, the harm to the CA is nevertheless a matter of considerable importance and weight in this case. That harm is less than substantial due to the scale and nature of the development, while also acknowledging the visual improvements to the existing shop front and the removal of the existing extensions at the rear. As such, in accordance with paragraph 208 of the Framework, this harm should be weighed against the public benefits of the development including, where appropriate, securing its optimum viable use.
37. The redevelopment of the building to provide a mixed use retail and residential development would help to support the role of the town centre and contribute to boosting the supply of new housing, as referenced in the Framework, in a accessible town centre location. The retail units contribute to the economy of the town centre and results in an increase to the number of smaller retail units, which adds to the variety of services on offer.
38. The proposal would also add to the size, mix and choice of housing in the area and the occupation of the apartments would provide social and economic benefits to local services and amenities. There would also be social and economic benefits to local services during the construction phase. I therefore attach moderate weight to these benefits.
39. Taking the above stated benefits together, while there would be moderate public benefits associated with the regeneration of the site and the provision of housing and retail premises in the town centre, these are insufficient to outweigh the harm I have identified.

40. Even though I have found there to be no harm to the setting of neighbouring listed buildings, including the Heritage Centre, I find that the proposal would fail to preserve the character and appearance of the CA, the desirability of which the Act requires that special attention is paid. It would therefore have a harmful effect on the area's character and appearance and conflict with Policy MD13 of the SAMDev. This requires proposals to avoid harm to the significance of designated heritage assets. The proposal would also fail to accord with Paragraph 203 of the Framework where it requires development to take account of the desirability of sustaining and enhancing the significance of heritage assets.

Parking

41. No off street parking provision is proposed within the site for future occupiers. This is not uncommon for many new residential developments within town centre locations.
42. The appeal site has access to a wide range of services and amenities on foot and by bicycle, as well as public transport opportunities nearby. Therefore, future occupiers of the proposed development would be encouraged to use alternative modes of transport, as opposed to a reliance on a private motor vehicle. Any future occupiers who choose to have a motor vehicle would need to seek parking provision elsewhere.
43. The submitted Highway & Transport Report and car parking survey (the Survey), conclude that no on-site parking is justified in this town centre location and ample parking is available both on adjacent streets and within the public car parks, which would meet the likely parking demands of the proposed development.
44. The appeal site is located within walking distance of public car parks, which would provide off street parking provision. The town centre location, even within a predominantly rural county, would also encourage future occupants to use alternative modes of travel, walking and cycling to access services and amenities. This could lead to low levels of car ownership and minimise disturbance caused by any demand for car parking on nearby streets.
45. I acknowledge that nine apartments could increase demand for on street car parking. This would be exacerbated by the loss of the existing on site parking spaces associated with the retail uses on the site. However, there are likely to be reasonable levels of activity in this town centre location during the day, at night and during weekends. Therefore, it is not clear, on the evidence before me, how increased parking demand would result in unacceptable disturbance to the amenities of neighbouring occupiers.
46. In addition, notwithstanding that the Survey was only carried out during a two-hour period on a Friday evening, the Highway Authority have not objected to the lack of proposed parking, nor have they highlighted that the proposed development would unacceptably exacerbate an on-street parking problem on nearby streets. Indeed, the Council have also not raised highway safety concerns in respect of on street parking.
47. The Council have submitted a recent appeal decision, which they consider to be highly pertinent to this case because the matter of parking provision in a town centre location was a key consideration in that case. However, that recent

appeal decision relates to a different town centre, and I have not been provided with substantive details about the proximity of that development to local parking opportunities, as well as neighbouring properties. As such, I have come to my own judgement based on the specific context of this appeal site, my observations, and the evidence before me.

48. Consequently, for the above reasons, I conclude on this main issue that the proposal would not result in unsatisfactory local parking stress and the living conditions of nearby residential occupiers would not be harmed, with particular reference to disturbance. As such, the proposal would not conflict with Policy CS6 of the CS, Policy MD3 of the SAMDev, and the Framework, which together and amongst other things, seek to ensure that new development respects the living conditions of current and future occupiers.

Other Matters

49. The appellant raises concerns about pre application advice that was received from the Council and fundamental concerns with the proposed development that were not previously raised. However, this does not affect my consideration of the planning merits of the proposed development.

Conclusion

50. The proposed development would harm the significance and fail to preserve or enhance the character or appearance of the Whitchurch Conservation Area. There are no public benefits sufficient enough to outweigh the harm I have identified. The scheme would also result in harm to the living conditions of nearby residential occupiers and the future occupiers of one of the apartments.
51. Consequently, I conclude that the proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. For these reasons, the appeal is dismissed.

N Bromley

INSPECTOR