
Appeal Decision

Site visit made on 25 February 2015

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 April 2015

Appeal Ref: APP/W4705/A/14/2221697
20 - 32 Great Horton Road, Bradford, BD7 1AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Castlebrook Properties against the decision of the City of Bradford Metropolitan District Council.
 - The application Ref. 13/04528/MAF, dated 31 October 2013, was refused by notice dated 11 April 2014
 - The development proposed is the construction of new student accommodation with associated facilities and 3 no. ground floor retail/leisure units including demolition of existing buildings and refurbishment of existing Grade II listed former warehouse.
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Procedural Matter

1. For the avoidance of doubt, the only matter before me for consideration is that relating to the refusal of planning permission. There is reference in the appeal documentation to the submission of a listed building consent application in respect of the alterations to the grade II listed warehouse building within the appeal site. However, no information has been provided as to the outcome of this separate application.

Decision

2. The appeal is dismissed.

Main Issues

3. I consider the main issues in this case to be:
 - whether the proposal represents piecemeal development that would compromise the development of adjoining land and be prejudicial to the planning of the wider area;
 - the impact of the proposal on the appearance and character of the Bradford City Centre Conservation Area and on the setting and significance of nearby heritage assets;
 - whether the proposal would provide adequate living conditions having regard to possible noise and disturbance from adjacent development.

Reasons

Development of the wider area

4. The appeal site comprises a former night club and bar premises fronting onto the pedestrianized Great Horton Road within this city centre location. The site also incorporates a listed former warehouse building, also previously used as toilets and cellar/storage areas for the nightclub, which fronts onto the narrow Quebec Street and faces a side elevation of the presently vacant Odeon Cinema complex. The proposal would see the site redeveloped with a multi-storey student accommodation building. The development would retain and incorporate the listed warehouse building, which would in part house a student-only café, and would also provide small retail/leisure units at street level fronting Great Horton Road.
5. To its south-western side the site abuts buildings fronting Great Horton Road used as a restaurant and shop with a nightclub premises fronting onto the adjacent Randall Well Street. I have seen no information to suggest otherwise than these premises would be retained. To the rear of the appeal site (and partially enclosed by emergency access external stairs to the former nightclub), and between it and a listed terrace of commercial properties fronting Quebec Street, is a small vacant and derelict area. The largely enclosed Bradford Beck passes under part of this site, as it does under a small portion of the appeal site.
6. To the east of the site and fronting onto Great Horton Road is a smaller area of land of a principally triangular shape. This is said to be in the Council's ownership and it has been landscaped with gravel and planters in somewhat rudimentary fashion, presumably following earlier demolition of buildings on it.
7. It is clear that pre-application discussions with the Council took place and these included reference to the desirability of incorporating the adjacent vacant land to the north, owned by a third party, and addressing the proposals for a future Bradford Beck linear park. The subsequent Design and Access Statement (DAS) accompanying the application addressed the contextual considerations of the appeal site with its near neighbours and followed liaison with this adjacent owner's architectural designer. From the evidence presented by the appellant, it appears that there are constraints to developing the adjacent site and that there has been little publically available evidence of any intentions to bring this land forward since refusal of applications in 2000 and 2001. The Council indicates that discussions are continuing regarding development there but there has been no progression to a planning application.
8. The detailed design of the appeal proposal provides for the building layout being set back from the boundary with the site to the north and with blank facing walling to allow development without compromising or imposing undue constraints on the neighbouring site's design or layout. Nor, in my view, need the present proposal stymie the possible future appropriate development of part or the whole of the triangular plot fronting Great Horton Road. Similarly, I see no reason why the scheme need result in any particular constraint on the development or redevelopment of the Odeon Cinema site to the opposite side of Quebec Street and which the appellant notes has been unused for many years.

9. As the appellant describes it, the proposal represents an 'oven-ready' scheme which, if it were to come to fruition, could provide an anchor or catalyst for, rather than a brake on, development on the adjacent sites within this city block, or on the Odeon site. It would be a sizeable development in its own right in terms of its massing and presence, although the site's footprint is not large. Incorporation of the adjacent sites into a single unified and comprehensive scheme may well be an ideal. However, there is no suggestion that, in themselves, the type and mix of uses proposed with the present scheme would be unacceptable on the site. Indeed, the Council accepts the principle of student accommodation in this location and that this could further contribute to the regeneration of the city centre.
10. Saved Policy UR2 of the Council's Replacement Unitary Development Plan (RUDP) is permissive of development. This is provided it contributes to the social, economic and environmental aspects of sustainable development and, amongst other matters, it does not constitute piecemeal development that would prejudice the proper planning of the area.
11. Whilst the scheme could be developed in isolation, it is apparent that it has been devised with consideration as to what might follow on adjacent sites, and not in a vacuum. On the basis of an acceptable scheme within the site the advantages of its development, which could galvanise further nearby building proposals, outweigh the aspiration for a wider, more comprehensive scheme. I do not consider that the proposal should be viewed as a piecemeal development that would prejudice the proper planning of the area. As such, the scheme would not be contrary to RUDP Policy UR2 in this regard.

Appearance, character and setting of heritage assets

12. The site lies towards the south-western edge of the City Centre Conservation Area. This conservation area encompasses a large section of the city centre, including many of its principal Victorian and early 20th century civic and commercial buildings as well as more recent development and redevelopment schemes, including the Bradford City Park, the civic area around City Hall. To the opposite side of Great Horton Road is the Grade II listed Alhambra Theatre, built in 1914. With the exception of the Grade II listed stone and slate-roofed former wool warehouse dating from about 1800, and which would be incorporated into the scheme, the present buildings on the site are of poor quality and make no positive contribution to the area's character or appearance.
13. The site has a principal frontage to the relatively narrow Great Horton Road, is adjacent to the much narrower Quebec Street and is effectively visually partly squeezed between the bulk of the Alhambra Theatre and the former Odeon Cinema. Despite this, the potential prominence of development on the site would be accentuated by the slope down Great Horton Road towards the 'bowl' of the city centre around City Hall. The DAS indicates that the design proposals have been considered in the context of what is a key view of the site from in front of the Alhambra and the Odeon looking up Great Horton Road.
14. The design is unashamedly modern in concept, comprising a series of blocks that step up the hill away from the Great Horton Road frontage and which incorporate a tower element. The approach to building heights would address the site's relationship with the Alhambra and the attached former Windsor Baths and Queen's Hall through the use of a lower element immediately

- fronting Great Horton Road. Its block-like components would reflect to some extent the treatment of the theatre and what are clearly its more modern elements facing the appeal site. The proposal's addressing of the Great Horton Road frontage would bring visual interest and functional liveliness to what appears to be a principal pedestrian thoroughfare between the university quarter to the west and the city centre to the east.
15. The design evolved through dialogue with the Integreat Plus Yorkshire Design Review Panel and feedback from English Heritage (as it then was). This has resulted in a modified scheme not least whereby the tower element has been reduced from 17 to 13 storeys and the use and mixture of external materials has been amended.
 16. The Alhambra Theatre, with its large dome turret and Corinthian columns, backed by taller twin domed towers, provides a significant landmark and is identified in the Bradford City Centre Design Guide as a 'star building'. Alongside is the 1930 Odeon Cinema building with its twin domes in an Art Deco style. Whilst unlisted, I note that this has been identified as a potential future 'star building'. The Alhambra and Odeon provide distinctive elements in the city skyline. They feature in key views when approaching from the south-east and in views outwards from the City Park. Through reduction in height of the tower element, the proposal would provide a more restrained and less assertive backdrop to these buildings than would have been the case with scheme as originally submitted. Whilst the building would feature in these views the modelling of its elements, variety of materials, and detailing which in part picks up on the verticality of the Alhambra's colonnade treatment, would mean that it would not unduly compete with, or detract from, the setting of this theatre or the Odeon building.
 17. I note that the principle of a tall building on this site would not accord with locations for such buildings promoted in the Council's City Centre Design Guide Supplementary Planning Document (SPD) and that the proposal would be taller than the suggested maximum number of storeys. The SPD sets out to accommodate taller buildings in valley locations on the edge of the city centre. The Council appears to criticise the quantum of accommodation to be provided and the justification for a building of this height. The appellant suggests that there is a need to provide a minimum level of accommodation in order for the development to be viable. As noted by English Heritage, the scheme would bring more residential accommodation into the city centre and would create a gateway link between it and the university quarter to the west.
 18. The scheme would provide a modern contrasting backdrop to the terrace of grade II listed 19th century warehouse buildings (Nos. 8 to 24) in Quebec Street when viewed from the north. This backdrop would be likely to be modified further through any eventual redevelopment of the currently vacant plot between the terrace and the appeal site. With the present proposal there would be an overall improvement to these buildings' setting compared with the current views of the poor quality rear elevations of buildings on Great Horton Road, external staircase and the metal-clad side addition to the listed warehouse within the appeal site.
 19. I am of the view that the proposal offers a bold, considered and imaginative approach and that in this location, against the further rising land to the south-west, the proposal's height, massing and articulation would not result in it

being an obtrusive, over-dominant or incongruent feature. I note that English Heritage has not criticised the amended scheme. In these circumstances, the fact that the scheme might not accord with the SPD is outweighed by the positive contribution it would make to this part of the city centre and the character and appearance of the conservation area in general. The scheme imaginatively incorporates the listed warehouse on Quebec Street which has been much modified over the years, as evidenced in the appellant's Heritage Statement. The Council does not specifically criticise the proposal's handling in respect of this element and I agree with English Heritage's assessment that works to the building would not harm its significance.

20. As a consequence of the above, I conclude that the proposal would result in an overall enhancement of the City Centre Conservation Area. The setting of both listed and non-listed heritage assets would not be materially harmed and, as such, their significance would be conserved. The scheme would not conflict with either RUDP Policies D1 or BH7. These respectively require all development to make a positive contribution to the environment and quality of life through high quality design, layout and landscaping, and to preserve or enhance the character or appearance of the conservation area. There would also be accord with the thrust of the National Planning Policy Framework which notes the desirability of new development making a positive contribution to local character and distinctiveness.

Living conditions

21. The Council's reason for refusal on this matter refers to the adverse effect on residential amenity as a result of noise and disturbance from the nearby Love Apple café bar and nightclub. The appellant's noise impact assessment which accompanied the application concluded that the appeal site was subject to high night-time music noise levels (which could extend until 06.00 on Friday and Saturdays); reasonable amenity for student residents could not be achieved even with glazing attenuation for those bedrooms which would be close to and overlooking the Love Apple. As a result, it would be necessary to either: alter the proposed scheme layout so that there would be no bedroom windows located close to and overlooking the nightclub; or enter into a s106 agreement¹ with the operators of the nightclub to either restrict music levels or to upgrade the lightweight roof structure of the club.
22. It is clear that the nightclub's operator was not prepared to enter into such an agreement and the appellant considers the option of a redesign, which would reduce the level of accommodation provided, would significantly reduce the viability of the proposal.
23. The appellant has suggested that the Love Apple was operating in breach of conditions attached to the operative premises licence, that the company that held the premises licence has been dissolved, and that from 23 September 2014 the licence had lapsed. It has also been suggested that there is no record of any planning permission having been granted for use as a nightclub and that there would be no immunity from enforcement action as the nightclub

¹ Town and Country Planning Act 1990 (as amended).

use has been carried on for substantially less than ten years²; on this basis, refusal on the grounds of noise disturbance is not warranted.

24. The appellant has expressed frustration that the Council appears to have no willingness to ensure that planning permission is in place for the nightclub or to enforce licensing conditions. The Council, on the other hand, has stated that the licence has been transferred, the premises are still trading as a nightclub and that it has not been established that the nightclub previously operated without the benefit of planning permission.
25. From the evidence before me, it is unclear as to what is the current status of the operation of the Love Apple premises. No details of the premises licence or the definitive position regarding the planning status of these premises have been provided. However, on the basis that the appellant does not dispute that without effective mitigation, as the nightclub presently operates a materially adverse impact from late night/early morning noise and disturbance for some of the residential occupiers of the proposal would be likely.
26. The Council has unhelpfully declined to provide a list of suggested conditions in the event that I was minded to allow the appeal. Nonetheless, I do not consider that, against the present evidential background, any condition could be reasonably and appropriately imposed in respect of the proposal before me that would be capable of providing the necessary noise mitigation and the adequate protection of living conditions. In this regard, therefore, the proposal would be contrary to RUDP Policy UR2, which requires the provision of appropriate mitigation where negative impacts are identified.

Overall conclusions

27. I have concluded that the proposal would not result in piecemeal development that would compromise the development of adjoining land, nor would it be prejudicial to the planning of the wider area. Similarly, the scheme would not harmfully affect the appearance or character of the Bradford City Centre Conservation Area or the setting or significance of nearby heritage assets. However, for the reasons set out above, the scheme would not be able to provide adequate living conditions for all its future residential occupiers as a result of noise and disturbance from the adjacent nightclub use and would thus conflict with RUDP Policy UR2. As a consequence, and on balance, I consider the scheme in its present form to be unacceptable and the appeal must fail.
28. I have taken account of all other matters raised but none is sufficient to outweigh the balance of the above conclusions.

P J Asquith

INSPECTOR

² The appellant indicates that the current approved planning use for the Love Apple premises is as an A3 restaurant.

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