
Appeals Decisions

Site visit made on 24 March 2014

by C A Thompson DiplArch DipTP Reg Arch RIBA MRTPI IHBC

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

Decision date: 13 May 2014

Appeal (A) Ref: APP/D1780/A/13/2202577

16-18 Upper Banister Street, SOUTHAMPTON SO15 2ED

- The appeal is under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is by Lance Properties Ltd against the decision of Southampton City Council.
 - The application Ref 13/00189/FUL/1152, dated 1/2/2013, was refused by notice dated 20/6/2013
 - The development proposed is alterations to the existing building to provide a 5 storey building with ground floor commercial unit (allowing for uses with use classes A1 /A2 /A3 /B1 /D1+D2) and 14 flats above (3x1 bed, 9x2 bed and 2x3 bed).
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Appeal (B) Ref: APP/D1780/E/13/2202582

16-18 Upper Banister Street, SOUTHAMPTON SO15 2ED

- The appeal is under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLB+CA Act) against a refusal to grant conservation area consent.
 - The appeal is by Lance Properties Ltd against the decision of Southampton City Council.
 - The application Ref 13/00190/CAC/1152, dated 1/2/2013, was refused by notice dated 26/6/2013.
 - The development proposed is alterations to the existing building to provide a 5 storey building with ground floor commercial unit (allowing for uses with use classes A1 /A2 /A3 /B1 /D1+D2) and 14 flats above (3x1 bed, 9x2 bed and 2x3 bed).
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Decisions

Appeal (A)

1. The appeal is dismissed and planning permission (PP) is refused.

Appeal (B)

2. The appeal is dismissed and conservation area consent (CAC) is refused.

Application for costs

3. Three applications for costs were made. The first by the Council against the appellant. The second, a counter application, by the Appellant against the Council and the third, also by the Appellant, is in respect of a failure by the Local Planning Authority (LPA) to attend the arranged accompanied site visit (ASV). These applications are the subject of separate decisions.

Preliminary Matters

4. The failure of the Council to attend the ASV resulted in the need for me to write to the main parties to clarify certain factual matters that I was not able to do at the site visit. This has delayed the determination of these appeals.
5. The Appellant's representatives, who attended the ASV at the appointed time, accepted that I could carry out the site inspection unaccompanied and the Council has not objected to me doing this. In the light of what I could see at the unaccompanied site visit (USV) I have decided that I have sufficient information to be able to determine these appeals fairly.
6. The Council's report of its officers for Appeal (A), and some of the appeal papers, refers to 3 reasons for refusal (RR) but my copy of the decision notice, dated 20 June 2013, has only two. In post site visit correspondence the Council confirms that there are just 2 RRs. It is on the latter basis that I have determined these appeals.
7. The site lies in the Carlton Crescent Conservation Area. The character or appearance of such areas should be preserved or enhanced (section 72(1) of the PLB+CA Act). Conservation Area Consent (CAC) is required for the demolition of any buildings within conservation areas (section 74 of the PLB+CA Act) because of the potential damage to such areas that unrestricted demolition could bring. From the information submitted to me there are no listed buildings in Upper Banister Street itself. But the backs of some Carlton Crescent properties, close to the appeals site, are listed and there is at least one other such building along the relevant part of Bedford Place. Section 66(1) of the PLB+CA Act requires special regard to be given to the protection of the setting of such buildings.
8. The development plan (DP), which includes the 2006 City of Southampton Local Plan Review, and its 2010 Core Strategy, is supported by supplementary planning guidance including; a Residential Design Guide (RDG) and a Carlton Crescent Conservation Area Appraisal Management Plan (CCAAMP). These documents give design and heritage conservation advice.
9. Statute and the relevant local policies are augmented by the National Planning Policy Framework (NPPF) which highlights the importance of heritage conservation and good design. The Government's recent Planning Practice Guidance (PPG) replaces a lot of earlier documents and is also germane to these cases.
10. The Council has confirmed, in the post USV correspondence, that the relevant application plans were UBS/P: 12/01; 12/02; 12/03; 12/04; 12/05; 12/06; 12/07; 12/08; 12/09; 12/10; 12/11; 12/12; 12/13; 12/20; 12/21; 12/22; 12/32; 12/33A; 12/34A; 12/35, and; 12/36A. The Appellant's list (see its letter to PINs dated 19 March 2014) added UBS/: 12/30, and; 13/31 (existing Ground Floor and First Floor Plans). These 2 extra plans were in my main bundle provided with the written representations and were probably missed by the Council in error. The Appellant confirmed that all these plans were submitted with the original planning application in its 19 March 2014 letter. With all this in mind, and accepting some 14/3/2014 minor amendments showing the correct position of the red line (site boundary) which are just undisputed factual corrections, I will determine the appeals on the basis of these numbered plans.

My Reasoning

Appeal (A)

11. There is one main issue for this appeal. This is whether the reconfiguration and enlargement of the existing buildings, for the proposed mixed use, is a good design which would preserve the character or appearance of both the conservation area and /or the setting of any affected listed buildings.
12. This is a city centre, and highly sustainable, site. Not only are there jobs and shops nearby but also buses and a main line railway station (the latter with regular services to London) are within easy walking distance.
13. The appeal proposals would replace a non-descript and vacant 3 storey, late 20th, building which has little intrinsic merit. There can be no objection to the principle of this building's replacement with a mixed commercial /residential scheme as long as what is proposed would be a good design. In this latter respect I note that the CCAAMP identifies the site as being in an area where there is an opportunity for gradual re-development to make better use of the land and improve its appearance.
14. Although this part of the conservation area does not have any fine Classical stuccoed buildings, such as those found along Carlton Crescent and parts of Carlton Place, it has some positive attributes. One side of the street is quite attractive with a small, almost domestic, scale. It is formed by the backs of buildings fronting Bedford Place and Carlton Crescent some of which are listed. Additionally, the built frontages along the central block, along the eastern side of Upper Banister Street and including the appeals site, although having an eclectic mix of styles, types, ages and heights, give important visual closure to the street picture.
15. The appeals site is an important corner one. Its redevelopment takes on particular significance because it would be likely to set the benchmark for any future redevelopment in the area.
16. The proposed scheme would build upon almost the whole of the available site; including the present small gap between the existing 3 storey block and a 2 storey Victorian building at N^o 18a. It would replace a relatively modest 3 storey structure with a much taller, 5 storey, one which would dominate this part of the street picture and would to my mind look unacceptably assertive. The fact that the scheme's topmost storey would be set back from the main frontage would not materially lessen the resulting oppressive visual disharmony. In short the appeals scheme would appear to me to be excessively large and bulky.
17. In forming this opinion I have taken into account the big and somewhat domineering appearance of the modern 4 storey replacement block at 19-22 Upper Banister Street. But the existence of one inappropriate design in the conservation area is not a good reason to allow another.
18. In regard to more detailed matters, I acknowledge that the proposed altered and enlarged block would, in the main, have appropriate tall windows echoing, at least to some extent, the proportions of some more "classical" fenestration within the wider conservation area. But the proposed pattern of the windows is inappropriately random in places particularly on the angled corner section of the front façade. And the facing materials, an arbitrary looking mixture of fair

faced brickwork, painted and self coloured render, does not appear to have much logic or discipline. Some proposed areas of fibre cement cladding would have an alien appearance not representative of the rest of the conservation area. And the horizontally proportioned, projecting, balconies would clash with the verticality of the proposed windows and would appear to be especially inappropriate and jarring features.

19. In summary the proposed new scheme would look too big and clumsy for this prominent site. It would not be a good design and would not preserve the character or appearance of the Carlton Crescent Conservation Area and could damage the setting of some nearby listed buildings. As such these proposals would not satisfy the relevant parts the NPPF, PPG, DP, or CCAAMP, and is sufficient reason to refuse planning permission.

Other Material Considerations

20. In reaching this conclusion I accept that the design changes, shown in some "revision A" plans, represent an improvement over the scheme's original design. But these alternatives, which omit the projecting balconies and indicate a more restrained pattern and pallet of external materials, are not before me. These amendments are not included in the list of plans submitted with the original planning application and it is unlikely that they were part of the scheme determined by the LPA (the relevant Committee meeting appears to have taken place on 19 June 2013 (the same day as the revised drawings were submitted) and the Officers' report tabled at that meeting was dated 17 June, 2 days earlier, and makes reference to the "original" projecting balconies not the altered flush ones). But even if I could consider the amendments formally, as part of these appeals, any improvements they would bring would be insufficient to address what I consider to be the scheme's unacceptable, and unattractive, bulk.
21. The second reason for refusal concerns such matters as the appropriateness of affordable housing (AH) provision and the need for financial contributions to certain offsite infrastructure works. Such matters now seem to be resolved by the introduction of the Council's Community Infrastructure Levy (CIL) and the Unilateral Undertaking (UU) given by the Appellant under section 106 of the Act. But their successful resolution would not be sufficient to overcome the outstanding design and conservation issues highlighted above.
22. Although I have noted the site's planning history I have determined these appeals on their own merits as I am required to do. None of these other material considerations are sufficient to alter my conclusions on this appeal.

Appeal (B)

23. Although not involving any new building works this appeal has a similar main issue to Appeal (A); that is the likely impact of the proposed demolitions on the character or appearance of the conservation area and setting of any affected listed buildings.
24. As already noted there is no objection to the principle of part demolishing, and redeveloping, the existing building on the appeals site. But in the absence of an acceptable new scheme it would not be appropriate to grant CAC at this time. This is because partial demolition, especially if the site were to be left in

a derelict state for any length of time, would look very unattractive and be most damaging visually.

25. Such a situation would be unlikely to preserve the character or appearance of the Carlton Crescent Conservation Area or the setting of any affected nearby listed buildings. This too would not comply with statute nor would it satisfy the relevant parts the NPPF, PPG, DP, or CCAAMP and is sufficient reason to dismiss the appeal and refuse the grant of CAC.

Colin A Thompson