



Appeal Decision

Hearing Held on 25 May 2021

Site visit made on 26 May 2021

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July

Appeal Ref: APP/K2230/W/20/3255909

Former Guru Nanak Darbar Gurdwara, Clarence Place, Gravesend, DA12 1LD

- 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 Guru Nanak Darbar Gurdwara against the decision of Gravesham Borough Council.
 - The application Ref 20140550, dated 30 May 2014, was refused by notice dated 17 January 2020.
 - The development proposed is demolition of the existing building and the construction of one new building accommodating 16 two-bedroom apartments and 3 one-bedroom apartments with 19 car parking spaces, cycle storage provision and bin stores contained within a basement area.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - i) Whether the proposed development would preserve or enhance the character or appearance of the Windmill Hill Conservation Area ('the Conservation Area'); and
 - ii) Whether there is clear and convincing justification for any harm that would result to the significance of the Conservation Area as a designated heritage asset.

Reasons

Character and appearance of the Conservation Area

3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving the character or appearance of the Conservation Area.
4. The Conservation Area is particularly characterised as a primarily residential suburb containing a large number of buildings of architectural and historic interest. It exemplifies 19th century suburban development in Gravesend. Clarence Place lies at the edge of Windmill Hill and Windmill Hill Gardens. The topography has shaped the street pattern, with narrow lanes leading up the

- steep slopes of the hill. The predominant building forms for the Conservation Area as a whole are paired villas and terraces. The gardens of many properties generally contribute to the spacious and green character of the streetscene.
5. The appeal building is included within the Windmill Hill Conservation Area Character Appraisal 2007 ('CACA') as one of the principal landmarks in the Conservation Area. Designed by John Sulman and constructed in 1873 as the Milton Congregational Church and lecture hall, the CACA notes that it is a feature building in views along the street, and from other parts of the Conservation Area. It is also shown as being one of the buildings of local interest on the Designations Map within the CACA and as a 'positive building' within the Townscape Appraisal Map.
 6. The building incorporating a prominent front gable with gothic windows and doors has a strong presence within the streetscene. Whilst Clarence Place itself is generally characterised by paired two and three storey villas, the former church provides an architectural and visual break to the predominant building form and in doing so adds considerable interest to the appearance of this part of the Conservation Area. Whilst it contrasts with other surrounding buildings, its strong presence and form within the streetscene is consistent with the religious and community roles it has previously performed, justifying its status as a prominent and important landmark building within the Conservation Area. As well as making a positive contribution to the character and appearance of the Conservation Area the building is also in itself a non-designated heritage asset.
 7. It has also been the subject of alteration (including a stucco coat) and extensions which to a certain extent have reduced its architectural quality and appearance. However, it remains a landmark building of some considerable architectural and historical interest which makes a positive contribution to both the character and appearance of the Conservation Area. The insides of the building have also been altered and damaged though this has little effect on its external appearance. Whilst it is larger than the adjacent dwellings, the buildings sit together to form an important group.
 8. Its demolition would result in the loss of a building which makes a positive contribution to the character and appearance of the Conservation Area. Taking all the above factors into consideration and not at this point taking into account the effect of the proposed replacement building, its loss would result in less than substantial harm to the significance of the Conservation Area in the context of paragraph 201 of the National Planning Policy Framework ('the Framework'). It would also lead to the loss of a non-designated heritage asset in its own right.
 9. The existing building would be replaced by the proposed part four/part five storey residential apartment building. Although the Council considers that the replacement building is of an acceptable design (notwithstanding its objection to the loss of the original building) several interested parties have raised concerns regarding the design and appearance of the replacement building within the Conservation Area.
 10. The proposed building would be of considerable width bulk and massing, with its main eaves level rising above that of the existing adjacent residential properties on both sides. It would also be of a significantly greater depth than the adjacent properties, adding to its overall size and massing that, as a

residential building, would appear at odds with the general character and rhythm of existing residential properties within the streetscene. Whilst the size and massing of the existing building also does not reflect neighbouring buildings, as outlined above this is warranted by the original purposes of the building and subsequent religious and communal uses.

11. The classical architectural design proposed has sought to be sympathetic to the general form of existing residential architecture in the streetscene and the front façade has been divided into two sections with a recessed central element which to a limited degree serves to reduce its overall presence and massing. Nevertheless, whilst there is some existing variety in heights and massing of existing buildings in Clarence Place, the bulk and massing of the building would be substantial and at odds with the existing residential development.
12. Whereas the buildings on either side of the site have an elegance in form and proportions that adds to their value to the Conservation Area, the proportions of the proposed building would appear as being inconsistent with the general streetscene, including a multitude of closely spaced windows and a rather squashed and compressed roof form in comparison with the overall size and form of the building. This would result in a building form at odds with the elegance and domestic proportions and form of the existing residential development within Clarence Place. The adverse impact of the massing and appearance would be particularly noticeable in views passing the site from Clarence Place, as well as from the adjacent part of Windmill Park Gardens. The excessive bulk and massing in relation to the adjacent row of lower residential buildings would also be very noticeably incongruous when approaching the site from the east along Clarence Place.
13. Whilst there are other large four storey residential buildings within Clarence Place, including those adjacent to the park on the opposite side of the road to the appeal site, they have less cluttered elevations with fewer, more widely spaced windows and their overall bulk and massing is reduced due to their more limited width and depth.
14. The replacement building would therefore result in significant harm to the character and appearance of the Conservation Area. Consequently, it would not counterbalance the harm that would result from the demolition of the existing building. Overall, the demolition of the existing building and the proposed replacement building would fail to preserve or enhance the character and appearance of the Conservation Area. This would be contrary to the design and heritage aims of Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy 2014 and Policy TC3 of the Gravesham Local Plan First Review 1994.
15. The wording of Policy TC3 contains considerable inconsistency with the heritage policies contained within the Framework in both parts (i) and (ii). This reduces the weight to be afforded to the conflict with this particular policy. In any event, as set out below and to accord with paragraph 11 of the Framework, it is necessary to consider the proposal against the policies in the Framework.
16. In this case, I consider the overall proposal to result in less than substantial harm to the significance of the Conservation Areas as a designated heritage asset. Paragraph 193 of the Framework states that great weight should be given to an asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to significance, requires clear and convincing

justification. Where a development would lead to less than substantial harm as in this case, paragraph 196 of the Framework states that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I go on to consider this further below.

Marketing and potential uses of the existing building

17. The appellant has provided marketing information, following a second round of marketing in 2018, which concludes that no prospective purchaser could be identified to make a proper commitment to refurbish the existing building.
18. The marketing invited offers in excess of £500,000. Detailed justification for this figure is rather limited though the Strutt and Parker Viability Report (July 2016) established £500,000 as the market value of the site. The Council and Historic England have suggested lower valuation figures of around £350,000. I note that there was interest shown by several parties following the marketing and that Historic England note that the number of viewings for a property of this nature was not unreasonable, albeit that this did not result in any successful offers. Whether or not the asking price has deterred any potential bidders is not possible to clearly establish.
19. The marketing states that it is envisaged that the owner will grant a building agreement followed by, on completion of an agreed refurbishment programme, a freehold sale. I consider it to be certainly possible that the need for the owner to grant a building agreement, rather than more simply and less restrictively offering the freehold of the property for sale, could potentially have caused difficulties for prospective purchasers and could have served to restrict formal interest in pursuing a refurbishment scheme. It appears that one party did make an offer close to the asking price but that the vendors condition that they retain a freehold interest until the completion of refurbishment meant that it was not possible to secure finance. Whilst the marketing terms sought to ensure that potential purchases had a firm commitment to purchase and pursue a refurbishment scheme, there would remain other measures in place (such as the need to obtain planning permission for a redevelopment scheme) that would also provide regulation of the future of the property.
20. Representations have been made regarding the lawfulness and enforceability of the existing s106 agreement relating to the property, though I am not aware of any application for the agreement to be modified or discharged. In any case, the s106 obligation does not rule out possible future uses, rather approval would appear be needed for them. Indeed, the terms and proposals refer to proposal being considered on a subject to planning permission basis. It is not unusual for developers to need to seek permission for changes of use to enable particular develop schemes so, whilst the obligation may lead to the potential need for approval of a particular use, this does not seem to be such an onerous burden so as to put off a serious bidder for the building.
21. The other terms and proposals include a need for potential purchasers to show a track record of such schemes and a written indication of the merits of a proposed use and development from the Council. How much bearing these restrictions would have on the level of interest and the decision of any party on whether to bid is difficult to quantify. However, any developer with a serious interest in the building is unlikely to be significantly deterred, particularly as

- engaging in pre-application discussions with the Council would provide at least an element of certainty regarding any potential proposal.
22. Some details of other potential refurbishment schemes have been provided by interested parties. With regard to other uses and notwithstanding the outcome of the marketing exercise, it is not possible through this appeal to fully appraise the likelihood of alternative uses of the building gaining planning permission.
23. From the evidence before me it does not appear that matters such as parking provision (taking account of the accessible location of the site) need to be of such significance to prevent refurbishment and future use of the building. Furthermore, commercial and community uses, and mixed uses, are commonly found to be acceptable adjacent to residential buildings, subject to any conditions, mitigation or other restrictions which are deemed to be necessary in each case depending on the detailed particulars of any proposal. Whilst there have been amenity concerns associated with the previous use of the building leading to the s106 agreement in connection with the permission granted for the new temple, that does not necessarily mean that such concerns would also stem from any future uses, subject to the usual planning and environmental controls. A residential conversion could lead to challenges in terms of living conditions of future occupiers (including daylight) and neighbouring properties (including privacy). Nevertheless, these need not be such an insurmountable challenge to prevent planning permission being granted for a creatively and well-designed scheme.
24. In conclusion on these matters, the marketing of the building has some limitations, particularly in terms of the asking price and the requirement for a building agreement. However, it is difficult to definitively determine whether alternative marketing, including for example a different asking price, terms and proposals would have led to any further formal offers being made and agreement being reached on the sale of the building. Whilst I consider there to be some doubt in this respect, the matter is not conclusive. With regard to alternative future uses of the building, I do not consider that it is proven that other future uses of the building are not feasible, albeit that no firm offer appears to have been capable of being progressed following the marketing that has been carried out so far.

Other matters

25. A Grade II listed war memorial is located within Windmill Hill Gardens. It is set within a formal park layout including pathways and lawned sections with substantial trees on either side. Its immediate setting within the park provides a calm ambience in which it can be appreciated. The appeal building forms part of its wider visual setting within the street, though there is no historical connection between the memorial and the former church. Whilst the appeal site is visible from it, it is not located directly opposite and is on the other side of the road to it. Given the separation between the two, in terms of both distance and physical separation, the proposed development would not detract from its setting and significance.
26. The appellant has entered into a S106 agreement for the proposed development with Gravesham Borough Council and Kent County Council. This includes provision for a Strategic Access Management and Monitoring (SAMM) contribution which would be used to fund the SAMM scheme to mitigate the

recreational impacts of the development on the Thames Estuary and Marshes Special Protection Area and the Thames Estuary and Marshes Ramsar site located within 6km of the development. The s106 agreement also includes provision for contributions towards library book stock at Gravesend Library. It predates and does not include any provision for further contributions sought by Kent County Council in its subsequent representations. However, given my overall conclusion in my determination of the appeal, it has not been necessary to consider any of these s106 matters in further detail.

27. Considerable submissions have been made regarding the way in which the application has been dealt with and determined by the Council, previous Officer recommendations and discussions that have taken place with Council officers. However, the application was formally refused by the Council and I am required to consider the application on its merits against the relevant planning policies, taking into consideration all representations and evidence provided.
28. A previous application received a resolution to grant planning permission in 2009, subject to the completion of a s106 agreement, though the s106 was not completed and the permission was not issued. This predates the current planning policies, including the Framework, and carries limited weight in the consideration of the current appeal.

The planning balance

29. I have found that the proposed development would result in harm to the character and appearance of the Conservation Area. This harm would be less than substantial but nevertheless of considerable importance and weight. Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
30. The proposal would also result in the loss of the existing building as a non-designated heritage asset, albeit that the implications of this in itself are not as important in the determination of the appeal as the resulting impact upon the significance of the Conservation Area as a designated heritage asset.
31. The provision of nineteen new residential units in an accessible location close to local facilities would contribute to the supply of housing in the Borough. The Council is currently able to demonstrate a housing land supply of 3.2 years which represents a considerable shortfall. The benefits arising from the delivery of the proposed new residential units therefore carry significant weight.
32. The proposal seeks to make effective use of previously developed land. The appellant argues that the building has been unused for over ten years and has over time experienced several alterations. Nevertheless, as set out above, it still makes a positive contribution to the character and appearance of the Conservation Area and I have also found that harm would result to the Conservation Area from the design and appearance of the replacement building. There is also likely to be an opportunity for some restoration works which could serve to enhance the appearance of the existing building. Consequently, these factors limit the general benefits that might arise from the regeneration of the site and the proposal to make effective use of the land.
33. There is a possibility that a replacement residential use might be advantageous for the living conditions of the occupiers of neighbouring residential properties. Notwithstanding the s106 relating to the new Guru Nanak Darbar Gurdwara

premises, there could be a range of uses that occupy the existing building. Whilst some modest benefits might arise, it has not been proven that future uses of the existing building would necessarily be harmful for neighbouring amenity and there is no certainty that significant benefits would arise in this respect.

34. I also heard evidence of the benefits from the work of the appellant within the local community and the contribution that could accrue from the development proposals for the appellant. However, it has not been demonstrated that the recent construction of the new temple in Gravesend was dependent upon a particular level of revenue from the redevelopment of the appeal site. Whilst I have no doubt about the very positive activities undertaken by the appellant for the local and wider community, these do not appear to be directly related to the success of this appeal proposal. Such benefits therefore carry only modest weight.
35. I have found there to be some limitations with regard to the marketing of the building although it has not been categorically shown that alternative marketing would have led to a position where further formal offers would have been made for the building. In any case, I have found that the proposed replacement building would neither preserve nor enhance the character and appearance of the Conservation Area, leading to less than substantial harm overall. Great weight should be given to an asset's conservation.
36. Whether considered individually or cumulatively, the public benefits of the proposal would be outweighed by the harm that would result to the significance of the Conservation Area. Taking account of all relevant matters, including the applicant's marketing, there is not clear and convincing justification for the heritage harm that would result. This is consequently a case where the heritage harm means that the application of the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
37. Even were I to be completely satisfied that the existing building had been satisfactorily marketed, the scheme before me (comprising both the demolition and redevelopment proposals) would lead to harm to its significance as a heritage asset. This would remain to be the overriding consideration.

Conclusion

38. The proposed development would be contrary to the development plan and the other material considerations do not suggest that the decision should be taken otherwise than in accordance with the development plan.
39. Therefore, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Escott	Director, Robinson Escott Planning
Dr Jonathon Edis	Director, HCUK Group
Ian Bingham	Caxtons Chartered Surveyors
Jeff Haskins	Haskins Designs
Manpreet Dhaliwal	for the Appellant

FOR THE LOCAL PLANNING AUTHORITY

Richard Hart	Team Leader (Development Management)
Alan Cox	Conservation Architect

INTERESTED PARTIES

Melanie Parr	Windmill Hill Residents Association
Ian Kilbane	Windmill Hill Residents Association
Neege Allen Navarria	Gravesend Futures
Elaine Moesli	Sulman 150
Martin McKay	Sulman 150

DOCUMENTS SUBMITTED AT THE HEARING

1. Historic Environment Good Practice Advice in Planning: 2 – Managing Significance in Decision-Taking in the Historic Environment

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Updated list of suggested conditions