
Appeal Decision

Site visit made on 2 December 2019

by Jonathan Hockley BA (Hons) DipTP MRTPI

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

Decision date: 30th December 2019

Appeal Ref: APP/A2525/W/19/3227640

The Fitness Company, 38 Spring Gardens, Spalding PE11 2XL

- 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 Minster Building Company against the decision of South Holland District Council.
 - The application Ref H16-0469-18, dated 14 May 2018, was refused by notice dated 20 March 2019.
 - The development proposed is described as the 'change of use of the existing building from use class D2 to use class C3, to include one 1-Bedroom apartment and eight 2-Bedroom apartments, proposed new four storey apartment building including twelve 1-Bedroom apartments, and associated external works and infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site encompasses No 38 Spring Gardens and adjacent land. After the appeal was made, on 2 July 2019 the Secretary of State for Digital, Culture, Media and Sport decided to add the Former Christian Association and Literary Institute (38 Spring Gardens) to the List of Buildings of Special Architectural or Historic Interest.
3. The Council made reference to this decision in their written statement. The appellant had the opportunity to refer to the decision in their final comments, had they wished to do so.

Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the Spalding Conservation Area and on the setting of No 38 Spring Gardens, the Mansion House and the Police Station, Grade II listed buildings.

Reasons

5. The appeal site lies within the Spalding Conservation Area (SCA). The SCA is a fairly large one, and covers much of the town centre and the historic settlement running along both sides of the River Welland. The SCA derives much of its character from this river, which splits the town in two. The commercial centre of the town lies on the west bank of the river and includes three connected open spaces in Market Place, Hall Place and the Sheep Market. This area is characterised by strong frontages with various attractive

- architecture and buildings. Within the commercial centre much of the area is hard paved and landscaped; the river and its banks provides the main green space in the town.
6. The Sheep Market is a triangular shaped hard paved area whose centre is used primarily for car parking. This area is dominated by the Grade II listed Sessions House on its west side, a large stone building designed in the form of a castle. Two crenellated side towers are set either side of a recessed central bay with royal arms set on top and the building is highly decorated and detailed.
 7. To the rear of the Sessions House is sited the Police Station, a further Grade II listed building dating from 1857. The building is constructed in brick with ashlar dressings and quoins and has an attractive hipped roof. The eastern elevation of the building faces towards the rear/side of the Sessions House and has two windows at first floor level, with seemingly three former openings below bricked up.
 8. The appeal site is set to the south east of the Police House and the south of the Sessions House and includes the former Christian Association and Literary Institute and an area of vacant land to the side. The building is a visually distinctive structure designed in a High Victorian gothic style, constructed in red brick with vitrified brick and limestone dressings. The building has a western tower entrance bay and a gabled eastern bay dominated by two tripartite windows, with those on the ground floor having cambered shallow arched upper sections and those on the first floor having more rounded arch windows. The frontage of the building is incredibly detailed, with numerous architectural details seeking to draw the eye.
 9. From Spring Gardens the southern elevation of the Police House can be seen clearly, along with the extensive rear wings of the Sessions House. To the east, and adjoining the site is sited a former Post Office depot. This large rectangular brick building covers a corner site on Spring Gardens and The Crescent (which leads to the Sheep Market to the north) and presents a largely blank elevation to the appeal site. The building is derelict but appears out of place not just in proximity to the former Christian Association but also with reference to the attractive terraced properties set on the east side of The Crescent when viewed from Spring Gardens.
 10. The proposed development seeks to construct a four-storey building on the land between the former Christian Association and the former Post Office depot, as well as converting the now listed building to residential use. Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 66 (1) of the same act states that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving this setting.
 11. Paragraph 193 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting (paragraph 194). The Framework defines setting as the surroundings in which the asset is experienced. Elements of

setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.

12. Policy 3 of the South East Lincolnshire Local Plan (the Local Plan), adopted March 2019 but prior to the determination of the application, states that all development will create distinctive places through the use of high-quality design. Design which is inappropriate to the local area or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable, and should create a sense of place by complementing and enhancing designated and non-designated heritage assets, and respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area. Policy 29 of the same plan states that proposals that affect the setting of a listed building will be supported where they preserve or better reveal the significance of the listed building and that proposal within a Conservation Area should preserve, enhance, or reinforce features that contribute to the area's character and appearance.
13. The new proposed building would be roughly rectangular in plan form and would be of a width similar to the former Christian Association. The building would have a mansard to a flat roof and would be predominantly faced in dark toned brickwork with cedar cladding between the windows, which would be regimented in their form and rhythm. Zinc cladding would cover the mansard and windows surrounds. The height of the building as shown on the plans would be virtually the same as the former Christian Association, and higher than the adjacent former depot, and would be sited on the plot closer to the latter building than the listed building but further forward than the heritage asset.
14. The former Christian association is a striking building, noted in the listing as being 'visually arresting'. As such, the building draws the eye and makes the passer-by look up and appreciate the details and architectural composition of the structure. The height and extent of the proposal would detract from this impression; while the height may seem very similar from the plans this is the height of what is effectively a flat roofed building with only a small false hip. The Appellant's Design and Access statement notes that the new building would be subservient to the existing building as this would be lower than the height of the square tower entrance bay. However, visually the height of this tower appears very similar to the pinnacle of the eastern gable, set closest to the proposed new building.
15. The bulk of the building would appear 'weightier' than the listed building whose roofline is varied and interesting and would draw the eye away from the former Christian association in a negative way. The building would not be subservient to the listed building and the proposed striking materials, including dark brick and uncharacteristic (to the area) timber cladding would accentuate such an effect. Such an effect would be noticeable from Spring Gardens, as well as from viewpoints from the south on Priory Road. From further along Spring Gardens close to the junction with the Crescent, the siting of the proposed new build significantly further forward in the plot than the adjacent listed building would dominate views and have an significant adverse effect on the setting and the significance of the former Christian Association, appearing as an overdevelopment of the site, neither preserving nor enhancing the character or appearance of the SCA.

16. The appellant points out that the architecture of the surrounds, including the Sessions House and the Police House is counterpointed by the functional modernism of the former postal office. However, the former post office appears out of place within its environment, being surrounded by much older and more classically designed buildings.
17. The Design and Access statement includes photographs of the former Methodist Chapel which was previously sited where the former depot is now. From the photographs this building had a grand columned façade facing on to the Crescent, complete with pediment and central window. The Spring Gardens side elevation included vertical columns of arched windows set above soldier arched windows, under a pitched roof. The appellant explains that the elevational treatment of the proposed new building seeks to reference the former Methodist Chapel in terms of the vertical emphasis of such windows. However, while the design of the 'columns' of windows in the proposed new build may do this, the regularity and uniform size and nature of the proposed windows would give a different impression to those shown on the former Methodist chapel, or indeed those on the former Christian Association. The proposal's windows would appear overly uniform and out of place, with the wider window sections appearing particularly out of place in public views of the side elevation from Spring Gardens.
18. Existing views can be made through the site to the Sessions and the Police House. Historical evidence details a lack of such a gap previously. The siting of the proposed new building, slightly apart from the listed building seeks to retain such views where possible. While this siting would partially achieve this, certainly in respect of the Police House, the design and bulk of the building would adversely affect the context of such views and the setting of both the Sessions House and the Police House. I acknowledge in this context that the views are of flank, 'minor' elevations of these buildings, but nevertheless these side elevations are attractive and hint at the scale and importance of such buildings.
19. Having regard to the advice in the Government's planning practice guidance I consider that the scheme would not reach the high hurdle of substantial harm (as defined in the Framework) to the significance of the heritage assets; the former Christian Association, the Police House, the Sessions House and the SCA. However, though less than substantial, there would, nevertheless, be real and serious harm which requires clear and convincing justification. Paragraph 134 of the Framework indicates that such harm is to be weighed against the public benefits of the proposal, including securing its optimum viable use.
20. The public benefits of the scheme may be considered to include the redevelopment of a brownfield site, and there are economic and social benefits from the provision of additional housing in a sustainable location. Further benefit to the scheme arises from the affordable housing proposed and I note the small size of many of the units proposed. However, from the latest evidence I have the Council are able to demonstrate a 5-year supply of housing land supply. Consequently, whilst there are some public benefits, these are moderate, and insufficient to outweigh the less than substantial harm that the proposed development would cause to the significance of the CA and the setting of the Grade II listed buildings. A less than substantial harm does not equate to a less than substantial objection and I give great weight to the conservation of the heritage assets. In any event, it seems to me that it would

be entirely possible for a scheme to be brought forward that would secure similar benefits, without causing the same degree of harm.

Other Matters

21. The proposal includes the change of use and internal alterations to the former Christian Association. As this property has now been listed other considerations come into effect regarding such changes. However, as I have dismissed the appeal on other grounds, I have not considered such matters further.
22. The proposal was recommended for approval by Council Officers but was refused by members at Planning Committee. I also note the pre-consultation discussions with the Council and that alterations were made to the scheme as a result of such discussions. However, the Committee made the decision of the Council, and while I can understand some frustration with the process given the advice received, I have agreed with the decision made by the Council.
23. The reason for refusal also refers to the proposed arrangements for refuse/recycling storage and considers that collection would be harmful to the amenity of the area. The appellant explains that a dedicated bin store, as shown on the plans, be managed and maintained by a housing association (or similar) who would take responsibility for moving bins to and from the highway on collection day and generally ensuring that the bin store is clean, tidy and secure. Such an arrangement could be ensured by condition, and I do not consider that the scheme would cause harm to the amenity of the area and would comply with Policy 3 of the Local Plan in this regard which states that development proposals will demonstrate how the provision of facilities for the storage of refuse/recycling bins will be secured.

Conclusion

24. To summarise, I conclude that the proposal would fail to preserve the setting, and therefore the significance of the Grade II listed former Christians Association, the Police House, the Sessions House and would neither preserve nor enhance the character and appearance of the SCA. Although I have concluded that the proposed development would cause less than substantial harm to these heritage assets, I do not consider that the public benefits of the proposal would outweigh the clear harm caused. As such the proposal would conflict with the Framework and Policies 3 and 29 of the Local Plan.
25. While the former Christian Association has been listed during the appeal process, the property was previously locally listed and a non-designated heritage asset. Paragraph 197 of the Framework states that in weighing applications that directly or indirectly affect such assets, a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset. Given this, the recent listing of the property has not been determinative in my decision; for the reasons above, the harm caused by the proposal to the designated heritage assets and to the former Christian Association would not be outweighed by the benefits of the scheme.
26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley INSPECTOR