



Appeal Decisions

Site Visit made on 21 September 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal A Ref: APP/B1605/W/21/3278424

Hanover House, Montpellier Walk, CHELTENHAM, GL50 1SD

- 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 BHM Two LLP against the decision of Cheltenham Borough Council.
 - The application Ref 20/02273/ FUL, dated 15 December 2020, was refused by notice dated 3 June 2021.
 - The development proposed is internal alterations to first and second floors to create 4 residential flats retaining restaurant on ground and basement floors.
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Appeal B Ref: APP/B1605/Y/21/3278428

Hanover House, Montpellier Walk, CHELTENHAM, GL50 1SD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by BHM Two LLP against the decision of Cheltenham Borough Council.
 - The application Ref 20/02273/ LBC, dated 15 December 2020, was refused by notice dated 3 June 2021.
 - The works proposed are internal alterations to first and second floors to create 4 residential flats retaining restaurant on ground and basement floors.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. On 20 July 2021, during the appeal process, the Government published its revised National Planning Policy Framework (the Framework). Both parties have had an opportunity to comment on the revisions where they may be relevant to the case, and any comments received have been taken into account in determining the appeals.
4. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my reasoning.

Main Issue

5. The main issue for both appeals is the effect of the proposal on the special interest of the Grade II* listed building, known as Hanover House, with particular regard to securing adequate living conditions for future occupiers.

Reasons

6. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
7. Hanover House is part of an extensive listing that also covers Nos 1-23 Montpellier Walk. The individual buildings are arranged in a fine classical terrace of shops with flats over, enhanced by a series of caryatids arranged regularly across the front of the ground floor. At its northern end the terrace extends out to the east with a substantial north facing bow and a further southward projection that encloses an area against the front of the terrace on three sides. These projecting elements form the appeal building. The architectural form of the building, including its ornamentation, joinery and caryatids are significant contributors to its special interest.
8. The Council does not object to the principle of converting the upper floors to separate residential units in the manner proposed. Indeed, the appellant has undertaken various amendments to the scheme with the aim of arriving at a position where the Council could be satisfied that the proposal would preserve the building's special interest. Based on the information before me and my observations on site I am satisfied that the dwellings would be laid out in a manner that allows the retention of historic fabric. The proposal would adopt the scale and character of existing interior spaces and maintain the building's fine external appearance. It would also make much better use of the upper floors of the building, facilitate the continued use of the restaurant, provide four residential dwellings, and secure much needed fabric repairs.
9. However, fundamental to the acceptability of the proposal is the ability of the building's fabric to provide for adequate living conditions for future occupiers of the flats. Taking into account the noisy external environment, including the road noise and activity of other nearby businesses as well as the existing restaurant use, there is a clear need to ensure that the building adequately addresses issues of noise transmission and odour management to ensure that the flats provide for a comfortable living environment.
10. The submitted Odour Risk Assessment establishes that the building should have in place a high level of odour control. It suggested that the necessary mitigation could be largely achieved by the existing apparatus, however no details of the adequacy of the existing system are before me. Following investigation it may be that the system needs to be fundamentally changed, which could have a significant impact on the listed building.
11. The submitted Noise Impact Assessment suggests that mitigation could include vents, and alterations to the existing windows that could range from secondary glazing through to full double glazed replacements. However, no assessment is made of the historic significance of the existing windows or their potential to be altered to improve their acoustic performance.
12. At my visit I saw that the building included many fine sash windows. I could see that some had been altered or replaced, however many looked as though they may be original, and they are certainly a key component to the original architectural composition. I therefore find it probable that mitigation works would directly affect historic joinery, and it would be likely that there would be

considerable debate about how this would be best achieved. It is likely that such work would result in some harm to the building's special interest, and as such this is a matter that needs to be properly understood at this stage as it is intrinsic to the building's conversion potential.

13. The appellant suggests that measures for fire separation are not part of the proposal. However, the flats would need to provide a living environment that is safe in the event of a fire. In this regard I am mindful of the need to provide a robust means of separation between the ground and first floor, as the proposed accommodation would sit directly over the commercial Kitchen. Work to provide this is likely to be invasive, with the potential for it to result in the alteration or loss of historic fabric.
14. Furthermore, I note that two units would be accessed from a ground floor lobby that is shared with the commercial Kitchen. The appeal submissions do not include a proposed ground floor and it is therefore not clear whether work would be required to make a safe means of escape in the event of a fire. Similarly, I note that the ground floor lobby at the base of the other staircase, that would provide access to the other two flats, also provides basement access. The conflicting needs of the users of the building in these two areas, as well as the need to ensure safe access from the dwellings in the event of a fire, must be properly understood at this stage.
15. The appellant suggests that such matters can be left to condition and that a further application for listed building consent could be submitted to secure additional works necessary to facilitate the proposal. Whilst there are many scenarios where the use of conditions to secure the submission of additional details would be appropriate, I cannot agree that leaving matters to condition that are so central to the proposal's acceptability and with an unknown impact on the building's special interest would be appropriate.
16. Similarly, I appreciate that it is sometimes necessary to submit additional applications to address unforeseen matters or design changes, yet the proposal before me is not in outline form and the issues raised here are fundamental. I have established that matters of fire safety and the management of acoustic and odour issues are likely to cause some harm to the building's special interest; the level of which needs to be thoroughly understood at this stage to enable a balanced decision to be made in the context of paragraphs 201 and 202 of the Framework.
17. In summary, having had special regard to the listed building's preservation and giving great weight to its conservation with reference to paragraph 199 of the Framework, the level of information before me is insufficient to allow me to be confident that the proposal would meet the requirements of the LBCA by preserving the building's special interest. In these circumstances Appeal B cannot succeed. Appeal A would not accord with Policy SL1 of the Cheltenham Plan 2020 and Policies SD8 and SD14 of the Joint Core Strategy 2017, which together seek to ensure that heritage assets are conserved, and development would be of a high quality that would not create conditions that could impact on human health.

Other Matters

18. The appeal building is within Cheltenham's Central Conservation Area (CA). Section 72 of the LBCA requires special attention to be paid to the desirability

of preserving or enhancing the character or appearance of a conservation area. Based on the extent of the proposal at this stage I am satisfied that its impact would not extend beyond the fabric alterations to the listed building, which are almost entirely internal. Thus, the proposal would not cause harm to the character or appearance of the CA.

19. The Council is of the view that it cannot currently demonstrate a 5 year housing land supply. Therefore, a presumption in favour of sustainable development applies. However, with reference to paragraph 11 d) of the Framework, an exception is provided where policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 establishes that this includes designated heritage assets. Consequently, the tilted balance does not apply.

Conclusion

20. For the reasons above, and having regard to all other matters raised, the appeals should be dismissed.

A Tucker

INSPECTOR