



Appeal Decisions

Site Visit made on 24 November 2021

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 8 December 2021

Appeal A Ref: APP/Q3115/W/21/3274831

11 Thameside, Henley-on-Thames RG9 1BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Marisa Bucknall against South Oxfordshire District Council.
 - The application Ref P20/S2809/HH, is dated 24 July 2020.
 - The development proposed is to rear of listed building, alteration of existing modern extension to widen its footprint and conversion from single to double storey (glass and metal cladding) plus addition of adjacent single storey glass extension. Internal floor plan alterations to install a new stair, removal of c20 staircase, new partitions at first floor level and opening up of rear elevation at g/f and 1/f levels for proposed rear extensions. Removal of existing staircase, fireplace and modern internal partitions. Retrospective application for sub-division of roof space into one large room plus small storage room and internal staircase, involving removal of internal section of chimney. Provision of two rear dormer windows in the rear roof.
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Appeal B Ref: APP/Q3115/Y/21/3274833

11 Thameside, Henley-on-Thames RG9 1BH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mrs Marisa Bucknall against South Oxfordshire District Council.
 - The application Ref P20/S2812/LB is dated 24 July 2020.
 - The works proposed are to rear of listed building, alteration of existing modern extension to widen its footprint and conversion from single to double storey (glass and metal cladding) plus addition of adjacent single storey glass extension. Internal floor plan alterations to install a new stair, removal of c20 staircase, new partitions at first floor level and opening up of rear elevation at g/f and 1/f levels for proposed rear extensions. Removal of existing staircase, fireplace and modern internal partitions. Retrospective application for sub-division of roof space into one large room plus small storage room and internal staircase, involving removal of internal section of chimney. Provision of two rear dormer windows in the rear roof.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Before the appeal was lodged the then applicant submitted amended plans revising the proposal. This reduced the size of the rear extension and retained more of the historic structure. The Council consulted on these amended plans and, following the lodging of the appeal, came to a view as to its position on them. I have considered the proposal in the light of these amended plans.
4. Following the lodging of the appeal the Council resolved that, had it been in a position to do so, it would have granted listed building consent, subject to conditions, but refused planning permission due to the effects on the living conditions of the occupiers of 12 Thameside.
5. However, it is still incumbent on me to consider the proposals in light of the obligations set out in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as appropriate, and the representations received. In this regard the appellant took the opportunity to respond to those third party representations.

Main Issues

6. The main issues for Appeal A are:
 - (i) whether the proposal would preserve the special architectural and historic interest of the Grade II listed 11 Thameside and its setting;
 - (ii) the effect on the living conditions of adjoining occupiers, and in particular those of 12 Thameside, in terms of outlook and whether it would result in an overbearing effect; and
 - (iii) the effect on the setting of various Grade II listed buildings in proximity to the appeal site and on the Henley Main Conservation Area.
7. The main issue for Appeal B is whether the proposal would preserve the special architectural and historic interest of the Grade II listed 11 Thameside and its setting.
8. As the first main issue in respect of Appeal A and that of Appeal B are effectively the same, I will consider them together.

Reasons

Effect on 11 Thameside and its setting

9. The National Planning Policy Framework (the Framework) defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. The national Planning Practice Guidance (the PPG) also notes¹ that 'significance' derives not only from a heritage asset's physical presence, but also from its setting.
10. Paragraph 199 of the Framework indicates that great weight should be given to the conservation of a heritage asset and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Paragraph 200 of the Framework indicates that any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.

¹ Reference ID: 18a-006-20190723

11. Policy ENV7 of the South Oxfordshire Local Plan indicates that proposals affecting listed buildings should conserve, enhance or better reveal elements that contribute to the heritage significance of the asset and/or its setting, respect features of special architectural or historic interest and be sympathetic to the listed building. Where harm is caused different considerations apply where substantial harm or less than substantial harm is occasioned.
12. The statutory listing of 11 Thameside (No 11) indicates that it was constructed in the early nineteenth century. However, there appears to be agreement between all parties that the property was effectively rebuilt, at least above ground floor, at some point following the 1894 floods in Henley-on-Thames. A photograph taken at the height of the flood shows the building forming a single structure with 12 Thameside (No 12), and the current configuration is of No 11 being a taller structure to eaves and having a separate roof from No 12, with No 12 still having the same configuration as in the 1894 photograph. The chimney stack between Nos 11 and 12 shown in the 1894 photograph appears to remain, although mostly subsumed within the structure of No 11.
13. I have been provided with a 1920 aerial photograph that shows Nos 11 and 12 still having a joint roof plane, but a 1931 aerial photograph shows the two as different structures. It is therefore reasonable to conclude that the rebuilding took place between these two dates. A 1944 photograph of the front elevation shows a smaller window on the left hand side. A larger window was subsequently inserted, which would be consistent with its post-World War II partial use as a shop; interestingly the 1894 photograph shows a display window in similar configuration to that at present.
14. The 1920s rebuilding appears to have retained the historic floor plan typical of a late Victorian building, and there is an internal passageway through the building on the southern side which indicates historic connections to warehousing uses connected with the River Thames for the buildings along Thameside and Friday Street. The listing description makes clear that, amongst other matters, the appeal building was listed for its group value: "No 9 (Baltic House) forms part of a group with the listed buildings on Friday Street and also with Nos 10 to 12 (consec) Thameside".
15. The front elevation also has a slightly set back stone course above the ground floor windows, which lines up with the jetty on No 10 to the south, showing to my mind that the rebuilding took account of the history and proportions of buildings in the area.
16. It is also not in dispute that a significant proportion of the internal dividing walls are comparatively modern and post-date the 1920s rebuilding, and that the single storey rear extension is also comparatively modern. However, although the appellants and the Council consider that the ground to first floor staircase forms a modern addition, the Henley Archaeological and Historical Group (the Henley Group) consider that this staircase dates from the rebuilding rather than the late twentieth century (although it put an earlier date for the rebuilding).
17. While the staircase has a more modern baluster, similar to those between the first and second floor, which is clearly a more modern intervention, at the site visit I took time to inspect the structure of the underside of the staircase from the understairs cupboard. The appellant has referred to slot-headed screws and cam locks, the latter being a modern (1980s) invention.

18. However, based on my careful inspection I was unable to note any cam locks. It appeared that the screws holding the stair risers screwed directly into the treads, and these are supported by continual pieces of timber on either side. I therefore conclude that while the baluster has been replaced, the staircase itself dates from the 1920s rebuilding (an earlier date would not gain sufficient height since the first floor is clearly higher above ground level than as shown in the 1894 photograph). The staircase thus has significance as part of the historic legibility of the building as it has evolved over time.
19. The Henley Group is also concerned that the first floor plan does not take sufficient cognisance of the chimney between Nos 11 and 12 (the fireplace is on the party wall at ground floor in No 12). Having carefully inspected this area I consider that the existing first floor plan submitted with the applications is not accurate as the built-in cupboard is not the length shown. However, the plan at the top of page 4 of the Henley Group's original representation shows a more accurate configuration.
20. As intimated above, the history of this area is of commercial uses associated with the River Thames. The area to the rear of No 12 is shown as 'Coal Yard' in the 1878 Ordnance Survey drawing, and a Malthouse associated with the Greys Brewery faces Friday Street. This provides historical associations to the area.
21. Part of the reconfiguration of this area to predominantly residential uses has left remnants of the commercial uses. For example, the southern brick wall at the rear of No 11 is approximately 4.8 metres high, and that between Nos 11 and 12 is approximately 2.3 metres high. The arrangements of occupation have part of the curtilage of No 12 extending to the rear of No 11, with a raised patio area for No 11 behind that for the width of No 12.
22. Pulling all of the above together, the significance of the listed building as a heritage asset for the purposes of this appeal lies from its group value with other listed buildings, which evidence the previous commercial uses in the area. The architectural significance lies from the front elevation and floorplan and its association with the river. However, the historical significance of the structure itself only dates back to the 1920s and with the exception of the internal staircase the vast majority of the internal walls are modern, thus reducing the importance of the structure of the building. This means that the overall significance of the building is less than might be initially ascribed from the listing description, but it is nevertheless a designated heritage asset and should be considered as such.
23. Although the proposed rear extension is described as an "alteration", the only element to remain would be the 4.8 metre high boundary wall and this extension would effectively be a new build. This would be for a two storey element constructed with a glazed façade but with views from the first floor restricted by moveable louvres at the eastern end and fixed vertical 'fins' at the western. The remaining façades of the extension, including the roof, would be completed in zinc, with the roof sloping gently upwards from towards the top of the wall.
24. The ground floor rear elevation would be removed and the area to the rear glazed. At first floor, the rear elevation would remain, although the windows would be replaced on the same pattern with double glazing. As noted in the heading the existing roofspace has been converted to habitable accommodation

- and forms part of the proposals. This area is currently lit with rooflights and it is proposed that two dormers would be inserted in the rear roofplane.
25. Internally the majority of the walls would be removed as would the ground to first floor staircase. Those internal walls to remain on the ground floor would consist of a section between the two front rooms, and above that at first floor. The internal wall in the roofspace along with timber struts would be removed.
 26. At ground floor, new walls would be provided to the north of the entrance door to create a series of rooms and to allow a new staircase to be inserted rising to a half-landing on the boundary with No 12. A new cross wall would be constructed within the middle of the dwelling and the side passageway would be truncated in length.
 27. The conversion of the roofspace to habitable accommodation has involved a changing of the nature of the space resulting in the loss of historic fabric and harm and the proposals would increase this harm. The insertion of the staircase between the first and second floors would result in the loss of historic fabric. I was not able to see the extent of previous interventions to the roof structure, but notwithstanding this the proposal would result in the loss of further historic fabric.
 28. The effect of the proposed works would be to remove the historical legibility of the floorplan. It is conjecture as to whether the current staircase is in the same location as the original (before the 1920s rebuild), but the relocation to the side would remove part of the historical legibility of the building as it has evolved. The demolition of the ground floor rear elevation would result in loss of historic fabric. The replacement of the first floor windows would also result in loss of some historic fabric. The insertion of the two dormers would interrupt the reconstructed roof line. All of these would harmfully affect the significance of the building.
 29. The current setting of the appeal building is formed by the road and river and the buildings around it which would be retained. It is also formed by the existing rear extension that would be replaced and the larger extension to the rear. While always part of a tight grain of development the ground floor extension would decrease the extent of space around the building which thereby harmfully affects its setting and significance.
 30. Concern has been expressed about the use of zinc and glass as materials for the rear extensions of the proposal. In this regard I am satisfied that the use of such contrasting materials would readily show that these works represented a discrete intervention into the building, would work satisfactorily within the urban context and enhance the listed building and its setting. However, this conclusion would only mitigate the loss of space to the rear of the building and would not mitigate any of the other harms that I have identified above.
 31. The PPG advises² that whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key

² Reference ID: 18a-018-20190723

element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.

32. Taking account of all the matters set out above, but as the front façade including the roof plane would be retained, I consider that the proposal would, within the terms set out in the Framework, represent less than substantial harm to the significance of a designated heritage asset. This should be given considerable importance and weight. That being the case paragraph 202 of the Framework states that this harm should be weighed against the public benefits of the proposal. I will discuss this below.
33. Within the terms of development plan policy, the proposal would harm the architectural and historic interest and significance of the building. As such it would be contrary to Policy ENV7 of the South Oxfordshire Local Plan as set out above. I will deal with those parts of this policy relating to balancing below.

Living conditions

34. The concerns relate to the increase in height of the two storey rear element and the effect on the living conditions of adjoining occupiers. The existing walls around the property would ensure that the ground floor elements would have not unacceptable effects.
35. Due to the height of the brick wall on the southern boundary, and the relative height of the windows in the properties to the south in Friday Street, I am satisfied that the proposal would at worst be only glimpsed over the wall. I am satisfied that this would therefore not result in an overbearing effect on the occupiers of these properties.
36. In relation to No 12, I am satisfied that provided the louvres were operated in a way as to restrict views out of the windows that the proposals would not result in unacceptable overlooking or a perception of overlooking; this would need to be secured by condition.
37. While built development would be located closer to the small rear garden of No 12, I am satisfied that due to the existing intervening high brick wall already having an effect on living conditions, that this would not result in a material increase in an overbearing effect or a loss of outlook for the occupiers.
38. Consequently, the proposal would result in acceptable living conditions for adjoining occupiers. As such the proposal would comply with Policy DES6 of the South Oxfordshire Local Plan which requires development not to result in significant adverse impacts on the amenity of neighbouring uses.

Settings of listed buildings and effect on Conservation Area

39. As set out above, the appeal site is surrounded by listed buildings. Their significance for this appeal relates to their architectural form and historical references to the use of the river. In this regard the appeal site forms part of the setting of these listed buildings.
40. The Conservation Area covers a large area including that part of the river within South Oxfordshire. For the purposes of this appeal the significance of the Conservation Area relates to its relationship to the river and the wide range of historic buildings and their street pattern forming the town.

41. Because of the intervening high brick wall on the southern boundary of the appeal site the proposals would not have any visual effect on the settings of the buildings in Friday Street or 10 Thameside. For the reasons set out above this would also be the case in respect of 12 Thameside.
42. The current use of the property is as a dwelling and this would remain. I am therefore satisfied that in all other non-visual effects the proposal would do no harm to the settings of these listed buildings. The settings of all these listed buildings would therefore be preserved. As small external alterations the proposal would also preserve the character and appearance of the Conservation Area, particularly as the front elevation would remain as at present. In this regard the proposal would comply with Policy ENV7 of the South Oxfordshire Local Plan.

Other Matters

43. Local residents have expressed concerns that the creation of a valley gutter between the retained wall and the roof of the rear extension could lead to water ingress causing harm. I am satisfied that subject to appropriate conditions that appropriate drainage arrangements could be made.
44. Concerns have also been expressed about construction activities, both in relation to noise and disturbance, and in the physical difficulties in delivering a project of this type on such a constrained site. I am, however, satisfied that if made the subject of a Construction Management Plan secured by a condition that this would not result in unacceptable effects.

Planning Balance

45. Both Policy ENV7 of the South Oxfordshire Local Plan and the Framework indicate that the harm to designated heritage assets should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Policy ENV7 goes further in that it also requires justification for any adverse impacts but allows exceptional circumstances to be taken into account in addition to any public benefits.
46. It seems to me that the benefits here are private. There is nothing in front of me to show that the building could not be satisfactorily utilised for its current use as a dwelling nor have I been directed to any exceptional circumstances. I therefore conclude that the benefits do not outweigh the harms. While the proposal would not have an adverse effect on the living conditions of adjoining occupiers and would preserve the settings of the nearby listed buildings and the character and appearance of the Conservation Area, these are only neutral factors.

Conclusion

47. The proposed development would be contrary to the development plan as a whole and there are no material considerations sufficient to outweigh the presumption in favour of determining the proposal in accordance with the plan.
48. For the reasons given above I conclude that the appeals should be dismissed.

RJ Jackson

INSPECTOR