



Appeal Decision

Site visit made on 8 February 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/L5810/W/21/3280836

Hotham House, Ground Floor, 1 Heron Square, Richmond, TW9 1EJ

- 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 Brindisa Kitchens against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 21/1971/FUL, dated 1 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is new hard surfacing to facilitate creation of external customer seating area and replacement waiter station.
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Decision

1. The appeal is allowed, and planning permission is granted for new hard surfacing to facilitate creation of external customer seating area and replacement waiter station, at Hotham House, Ground Floor, 1 Heron Square, Richmond, TW9 1EJ, in accordance with the terms of the application Ref 21/1971/FUL, dated 1 June 2021, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. At the time of my visit the appeal site had been paved and was occupied by tables, chairs and four large umbrellas. However, the waiter station did not appear to accord with the details shown on drawing 21009-P391, the planters were not in place and a large canopy had been fitted over the entrance that does not form part of the appeal proposal. Accordingly, whilst I have been mindful of the presence of a seating area at the front of the building, I have assessed the proposal primarily on the basis of the plans before me.
3. I have used the amended description of the proposal that was agreed between the main parties before the Council made its decision.

Main Issues

4. The main issues are:
 - a) Whether the proposal would be inappropriate development on Metropolitan Open Land (MOL) having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, and
 - b) The effect of the proposal on the character and appearance of the existing building and the area, including the Richmond Riverside Conservation Area and the setting of the listed building known as Heron House.

Reasons

Metropolitan Open Land

5. Supporting text to Policy LP13 of the London Borough of Richmond upon Thames Local Plan 2018 (LP) clarifies that Green Belt policy, including that set out within the Framework, applies equally to MOL. Paragraph 149 of the Framework establishes that new buildings within a Green Belt are inappropriate unless, amongst other things, they constitute the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Council referred to this exception in its officer report.
6. Evidence before me clarifies that the Council granted permission in 2017 to use the appeal site for the setting out of chairs and tables, planters and two service stations. The area was used in this manner by the previous occupants of the building.
7. The appeal proposal seeks to replace the Astro turf with external floor tiles, position additional chairs and tables, position new planters that would be further towards the outer edge of the area, replace the upper service station with a waiter station and the lower service station with a store structure, and position four umbrellas. The previous occupant also used four umbrellas in the area, however the siting of these does not appear to have received planning permission.
8. The terraced form of the land that falls away from the front of the building would mean that the change to the surface material would be of no real consequence, as it would not be visually prominent, and would relate well to the various urban surfaces in the immediate area. The proposed planters would be very similar to those approved in 2017. The increase in the number of chairs and tables would extend modestly out from the building when compared with the previous permission, however the proposed layout would essentially form two rows of tables and chairs, which would be very similar to the layout suggested by the 2017 permission, with a similar visual impact.
9. The proposed waiter station would extend above the height of the adjacent railings, however it would have only a modest frame that would extend above this height, and its dull colour would ensure that it would not be prominent.
10. The four umbrellas would be large and would cover most of the space at the front when erect. They would however very much relate to the use of this front area for outside dining, and would be of a modest scale when viewed in the context of the substantial front elevation of the existing building.
11. The area of the appeal site is narrow, and spans across the front of the building. The combined effect of the proposal when viewed as an addition to the existing building would be very modest, taking into account its overall scale. Each element would share a palette of similar colours and materials, which would ensure that the whole area has a unified appearance.
12. In terms of the five purposes of the Green Belt that are set out at paragraph 138 of the Framework, the proposal would not result in urban sprawl, and neither would it result in the merging of existing developed areas. It would not result in the encroachment of development into the countryside as it would extend no further than the existing site area, and would re-use existing

developed land. I am satisfied that it would also preserve the setting and special character of the area, which is a matter that I will address in the second main issue of this decision.

13. In summary, the proposal would not be inappropriate development in the MOL. It would therefore accord with the Framework, Policy LP13 of the LP and Policy G3 of the London Plan 2021, which together seek to ensure that development proposals protect areas of MOL against inappropriate development.

Character and appearance

14. The appeal building is registered by the Council as a building of townscape merit and the site is within the Richmond Riverside Conservation Area (RRCA) and near to a number of listed buildings, the closest of which is Heron House. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Additionally, 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.
15. Heron House is a grade II listed building that stands immediately to the south of Hotham House. It is an early 18th century building of two storeys with dormers and a basement level. It has a well ordered elevation that occupies a prominent position in the highly significant ensemble of buildings fronting the river. Its riverside situation and relationship to adjoining buildings are important components of its setting that contribute to its special interest.
16. The RRCA is dominated by the open corridor of the river, which the RRCA statement suggests creates a scene of national renown. The river, its promenade and activity on the water create a distinctive setting for the area's important historic buildings. It is suggested in the statement that the Richmond Riverside scheme, of which the appeal building is a part, spectacularly exploits its location. These elements are fundamental to the character and appearance of the RRCA.
17. The dining area would be seen in the context of the terrace, which, as an area of urban open space, has an appearance that is very different to the more natural appearance of the riverbank opposite. It is already occupied by a regular arrangement of benches, bins and street lamps that are set across the terrace, and the substantial external dining area of the building to the south.
18. In terms of the broader visual impact, the differences between the 2017 scheme and the appeal proposal would be largely limited to the siting of four umbrellas. The umbrellas would be seen as part of a modest external dining element to the foreground of a large building, which would not extend beyond the boundary defined by the upper path of the terrace. Subject to an appropriately worded condition, chairs and tables would be removed outside opening hours to ensure that the area does not appear cluttered with unused furniture when the business is not open.
19. The proposal would be at a low level, arranged in a linear fashion to align with the base storey of the host building. The host building would, above this level,

remain highly prominent to view and a key component of the fine group of buildings. Although the neighbouring listed building is more modestly scaled, its appearance and its important relationship with the open setting of the riverside would not be harmed or diminished owing to the proposal's limited scale.

20. The RRCA statement identifies development pressure which may harm the balance of the river and landscape dominated setting. For the reasons set out above, I am satisfied that the proposal would be well related to the existing building and would not extend development forward in a manner that would harm the balance of the river dominated setting.
21. In summary, the proposal would preserve the character and appearance of the building and the area, including the RRCA and the setting of the nearby listed building. It would thus accord with the requirements of the LBCA and paragraph 199 of the Framework, which states that great weight should be given to the conservation of heritage assets. It would accord with Policies LP1, LP3 and LP4 of the LP, which together seek to ensure that development proposals are designed to a high quality that is compatible with local character and conserve the historic environment including non-designated heritage assets.

Conditions

22. I have had regard to the planning conditions suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed a condition specifying the approved plans as this provides certainty.
23. I have imposed a condition to require the removal of the chairs and tables when they are not in use, to manage the impact of the proposal on the character and appearance of the area, and to ensure that the furniture is not misused when the restaurant is closed. I have amended the wording suggested by the Council by adding an additional half an hour at each end of the day, to allow the chairs and tables to be moved before the business opens and after it closes.
24. I have imposed conditions to restrict the playing of music and outdoor cooking, and to discourage the use of the area outside of business hours, to ensure that the proposal does not cause a nuisance to users of nearby buildings.
25. The appellant suggests that the umbrellas and waiter station are mobile and can be brought in overnight. The Council has not suggested a condition to require this. I have considered this matter carefully. I note that these items are large. It is likely to be difficult to move them inside every day, and unlikely that there is sufficient space inside the building to store such large items. Moving the tables and chairs inside every day would simplify the appearance of this area when it is not in use and would be easy to achieve. I am satisfied that retaining the umbrellas and waiter station outside would not be harmful, and that it would thus be unnecessary to use a condition to require this.

Conclusion

26. For the reasons above, the appeal should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21009-107, 21009-P001, 21009-P011, 21009-P101, 21009-P211, 21009-P391 and 21009-P396.
- 3) No tables or chairs shall be present in the area identified for tables and chairs on drawing no. 21009-P101 before 07:30 and after 23:30 on any day.
- 4) No playing of musical instruments or operation of sound amplification equipment shall take place at any time in any part of the area identified for chairs and tables as shown on drawing no. 21009-P101.
- 5) No barbequing or outdoor cooking shall take place at any time in the area identified for chairs and tables on drawing no. 21009-P101.
- 6) No customers of the associated business shall be present within the area identified for chairs and tables as shown on drawing no. 21009-P101 before 08:00 and after 23:00 on any day. A notice to this effect shall be displayed at all times on the premises so as to be visible from outside.