



Appeal Decision

Site visit made on 24 May 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2022

Appeal Ref: APP/U3935/W/22/3291779

Biplop Restaurant, 14 Wood Street, Old Town, Swindon SN1 4AB

- 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 Mr Rokib Ali against the decision of Swindon Borough Council.
 - The application Ref S/21/1630/BLOWC, dated 6 October 2021, was refused by notice dated 10 January 2022.
 - The development proposed is demolition of building and re-build, extensions and internal modifications to buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development in the header above is taken from the application form. The Council's decision notice and the appeal form include slightly different descriptions. However, there is no confirmation from the main parties that these have been agreed and so I have used the original description from the application form.

Main Issues

3. The main issues are (i) the effect of the development on the living conditions of the occupiers of Goddard Court and 8A Wood Street (No 8A) in terms of outlook and privacy, and (ii) its effect on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Old Town Conservation Area (the CA) and its effect on non-designated heritage assets.

Reasons

Living conditions

4. The proposed development involves works to a 2 storey, flat roof building and pitched roof store to the rear of the appeal property. The buildings are attached to form a L-shaped plan and they lie on the boundaries of the site. Both are seen from Goddard Court, a residential complex to the east and north as well as No 8A, a residential unit on various floors to the south.
5. The proposal would include the demolition of the store and the erection of a new 3 storey high building. Also, an additional storey would be added to the flat roof building. By virtue of its height and proximity, the resulting building would be clearly seen from the rear of Goddard Court and No 8A.

6. The 2 arms of the proposed building would wrap around the west and north sides of a courtyard garden to the rear of the southernmost part of Goddard Court. It would be markedly taller than the existing buildings and this increase in height would be clearly appreciated from the courtyard as well as from rear windows at ground, first and second floor levels. I am advised that some of these windows serve bedrooms and so provide an outlook for residents from inside Goddard Court. The courtyard is already affected by a sense of enclosure due to the existing buildings. However, the development would be taller and would lead to a greater overbearing effect than the current situation.
7. Moreover, the east facing elevation of the proposed building would contain windows at first and second floor levels. These would provide new elevated views at close proximity directly onto the courtyard garden and towards rear windows in Goddard Court. The existing building contains no east facing windows and so the proposal would lead to additional overlooking with a subsequent loss of privacy.
8. The appellant indicates that the proposed windows would be obscure glazed and so no harmful overlooking would occur. However, some of these windows would serve lounge and dining areas. As they would be the only windows serving habitable rooms, a requirement for obscured glazing would lead to a restricted outlook and an unacceptable living environment for occupants of the proposed accommodation. Therefore, it would be unreasonable to impose a planning condition that would require the windows to remain obscured glazed. Accordingly, I am aware of no reasonable measure that could be secured so as to prevent an intrusive loss of privacy to Goddard Court residents.
9. Also, the nearest element of the proposed building would be adjacent to the boundary with No 8A. The increase in the height of the buildings would be clearly noticeable from No 8A's raised terrace and its rear first floor windows. By virtue of its proximity and relative height, the development would have a marked overbearing effect on No 8A, particularly in respect of the terrace. South facing windows in the proposed development would be set far enough away to avoid an unacceptable loss of privacy but the scheme would cause significant harm to the outlook from No 8A.
10. The north side of the proposed building would face towards a blank side elevation and a parking area serving the northern part of Goddard Court. Due to the relative position of windows and separation distances I am satisfied the development would avoid unacceptable harm to the living environment of residents to the north of the site. However, acceptability in these regards fails to address the harm identified in respect of the south part of Goddard Court and No 8A.
11. The appellant suggests that the impact of the scheme could be addressed through an amendment so as to provide a flat roof with a parapet wall rather than the proposed hipped roof. However, that is not the development before me and it is unclear whether such a revision would address the identified concerns in respect of overbearing effects. In any case, such an amendment would not prevent overlooking onto Goddard Court.
12. For these reasons, I conclude the development would have an unacceptable detrimental effect on the living conditions of the occupiers of Goddard Court in terms of outlook and privacy and the occupiers of No 8A in terms of outlook. In these respects, the development would not accord with policy DE1 of the

Swindon Borough Local Plan 2015 (LP). Amongst other things, this looks to ensure high quality design that has regard to privacy and outlook.

Character and appearance and heritage assets

13. The site lies in the CA which, from my observations, gains its significance from the buildings of age and architectural interest that line local streets. The appeal property itself and the adjoining buildings that face Wood Street include features that suggest they are Georgian or Victorian in origin. These buildings are not listed and as far as I am aware they are not formally identified as having any historic significance. Even so, their obvious age and style are of an interest and provides justification for them being classed as non-designated heritage assets.
14. The buildings subject of this appeal are not easily seen from the highway as they are behind Goddard Court and taller buildings that face onto Wood Street. Even so, they are visible from the rear of adjoining properties and so they have a localised effect on the character and appearance of the area.
15. The buildings have had previous alterations which have resulted in a somewhat incoherent and unsightly appearance. In particular, the form of the 2 storey flat roof building is markedly at odds with the traditional pitched roof buildings that surround the site. Nevertheless, retained features on both buildings indicate that they are of some age. As such, they add to the historic interest and character of the area. Therefore, the proposed demolition of the store building would erode the historic significance of the CA. There is no substantive evidence to demonstrate the retention of the store would be impractical or prohibitively expensive due to its structural condition.
16. Moreover, the existing buildings are lower than the front part of the appeal property, so reflecting the tendency for buildings to the rear to be subservient in scale to those facing the street. In contrast, the proposed development would result in a sizeable 3 storey building which would be of similar height and bulk to roadside properties. The scale of the proposed building on a backland site would be unusual and at odds with the pattern of taller buildings to the front and lower buildings to the rear.
17. The development would be similar in height to the adjacent Goddard Court which is a large 3 storey modern building. However, unlike the proposed scheme, Goddard Court has street facing elevations and so it follows the local pattern of buildings. As such, Goddard Court does not set a precedent for tall and bulky buildings to be introduced on land to the rear.
18. In addition, the upper floors of the proposed development would not link into the front building. Also, the hipped roof and uPVC windows would fail to reflect the historic form and style of the host property and neighbouring buildings on Wood Street. For these reasons, the proposal would fail to integrate sensitively with its immediate surroundings.
19. The appellant has suggested the external materials could be the subject of approval through the imposition of a planning condition. However, this would fail to address the harm caused by reason of the development's scale, its backland location and the other aspects of its design that would fail to sympathetically integrate with its surroundings.

20. The development would affect only part of the CA and so it would cause less than substantial harm to its significance. In such circumstances, the National Planning Policy Framework (the Framework) and LP policy EN10 require any public benefits of the development to be considered against the adverse impacts. The Framework also requires regard be had to the effect of a proposal on the significance of non-designated assets.
21. The development would provide enhanced food preparation areas to support the existing restaurant and takeaway operations. It would enable the businesses to adapt and grow and so would provide a significant economic benefit. The upper floors would provide living accommodation which it is suggested would help with staff recruitment and retention. However, there is little substantive evidence that demonstrates a need for staff to live at the site or that any recruitment and retention issues would be addressed by the proposal. Therefore, this factor attracts modest weight. Even so, the provision of new residential units would help boost the supply of housing. This benefit also attracts modest weight given the number of new flats proposed.
22. The Framework states that great weight should be given to the conservation of a heritage asset. As such, I attach considerable weight to the identified detriment to the CA. The public benefits of the development would be significant but they would not outweigh this harm. Also, the advantages of the scheme do not override the detriment to the setting and significance of the host property and the neighbouring buildings, which I consider are non-designated heritage assets.
23. As such, I conclude the development would have a harmful effect on the character and appearance of the area. Also, it would not enhance or preserve the character or appearance of the CA and it would be detrimental to the setting and significance of non-designated heritage assets. In these respects, it would not accord with LP policy EN10 which resists harm to the significance of heritage assets unless there is adequate justification.

Conclusion

24. The harm identified in respect of the main issues means the proposal would not accord with the development plan. The benefits of the scheme are of insufficient weight to justify granting planning permission contrary to LP policies. Therefore, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR