



Appeal Decision

Site visit made on 11 May 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/W5780/W/22/3306892

42-48 High Road, South Woodford, London E18 2QL

- 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 R Davis (Fairbid Ltd) against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4658/21, dated 25 October 2021, was refused by notice dated 28 June 2022.
 - The development proposed is upward extension of one additional storey to the existing 3 storey building to add an additional 9 C3 residential apartments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - The effect of the proposal on the character and appearance of the host building, local area and the setting of a Listed Building; and
 - Whether the proposal would provide suitable living conditions for prospective future occupiers with regards to private amenity space.

Reasons

Character and Appearance and Setting of Listed Building

3. The appeal site includes an apartment building with a mansard roof which is broadly formed of two three-storey blocks and a middle section. One of these main blocks fronts High Road and is next to a Grade II Listed Building, '32-44 High Road E18' (the LB), while the other is located to the rear.
4. The area is of mixed residential and commercial character. The east side of High Road is predominantly formed of three-storey buildings with commercial units to the ground floor and residential uses above, while on the opposite side there is a wider variety of built form, with some four storey apartment buildings either side of the junction with Grove Hill.
5. The mansard roof has a slight step back from the front elevation which allows a degree of subordination to the host building while also preserving the three-storey appearance when viewed from High Road. The proposal would see an additional storey added to the roof which would be a continuation of the mansard design. This would create a roof which would appear top heavy and somewhat elongated, leaving a roof which would appear to comprise nearly

half of the total height of the building. The additional storey with its double height mansard roof structure would starkly rise above and behind the LB and introduce a large and incongruous feature to the street scene at odds with its surroundings.

6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the local planning authority or, as the case may be, the Secretary of State, 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. There is no disagreement between the parties that the proposal would be within the setting of the LB. Given the proximity of the host building to the heritage asset, I see no reason to disagree.
7. From my observations on the site visit and the evidence before me, the significance of the LB is derived mostly from its age, architectural quality, and its historic association with the development of the area as a retail high street. The location and its setting therefore makes a valuable contribution to its significance.
8. The appeal building is of more modern and simple design, and the scale and modest detailing mean it does not compete with or detract from the character of the LB at present. This allows the appeal building to make a neutral contribution to the setting. Whilst I appreciate that the surroundings to the appeal site have been altered over time with the development of the area, nearby properties, particularly on this side of High Road, tend to respect rather than diverge from the modest scale of the LB. Whilst the appeal building has a neutral effect on the LB, the changes proposed would be more visually dominant and a resultant effect of a four-storey structure with an incongruous roof design and top-heavy appearance.
9. I take on board that there are four storey buildings nearby, including the apartment buildings adjacent. However, these are separated from the LB by the road itself and do not share the same inextricable visual relationship as the appeal building and the LB. Others, such as the cinema, are not experienced in the same manner as the appeal building. This does not alter my assessment of the proposal as a result.
10. Although it would not directly harm the fabric of the LB, given my findings above that the proposal would be harmful to the character and appearance of the host property and local area, it follows that the proposal would cause harm to the setting of the heritage asset in that it would compete with the LB due to its design and scale. This would negatively affect how the building is experienced. Accordingly, the proposal would fail to preserve the setting of the Listed Building and as such would not meet the statutory requirements of the Act.
11. In terms of the approach set out in the Framework, the Courts¹ have held that the categories of harm given in paragraph 199 of the Framework are adequate to enable the weighted balancing exercise to be carried out. Therefore, there is no requirement for me to subdivide 'less than substantial' harm into sub-categories such as a 'low level' of less than substantial harm. The exercise leads to over-refinement, while the approach ordained by the Framework deliberately keeps the exercise relatively straightforward, avoiding unnecessary

¹ Shimbles v City of Bradford MBC [2018] EWHC 195 (Admin)

complexity. As such, in line with paragraph 202 of the Framework, the harm would be less than substantial harm and this should be weighed against the public benefits of the proposal, which I will consider in the planning balance.

12. Based on the foregoing, the proposal would harm the character and appearance of the host building, local area and cause less than substantial harm to the setting of a Listed Building. This would be contrary to policies LP26 and LP33 of the Redbridge Local Plan 2015-2030 (RLP) (adopted March 2018) and HC1 of the London Plan (LP) (adopted March 2021). These seek, among other things, to prioritise the conservation of heritage assets when considering the overall impact of development proposals upon their significance and importance. The proposal would also be contrary to the aims of the Framework which advise through paragraph 199 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Living Conditions

13. I understand from the site planning history that the appeal building was formerly an office block which was converted to 33 residential flats under the prior approval process². The proposal seeks to add an additional nine one-bed flats to the building. Both policy LP29 of the RLP and policy D6 of the LP advise on the requirement for private amenity space for various types of housing, requiring a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings. Moreover, Policy LP29 of the RLP advises that amenity space should be of an appropriate scale to maximise usability and to be of a functional and practical configuration to enable a range of reasonable activities including sitting out, dining, child's play, gardening and social interaction, while D6 of the LP advises this space should achieve a minimum depth and width of 1.5m to meet the same aims as LP29 in terms of usability.
14. From the information before me, flat 1 would not meet the depth requirement, flats 3 and 4 would not meet the 5m² size while flats 8 and 9 would not meet either depth or area. Regardless of the average amenity space when divided against the nine in total, the shortfalls in private amenity space would fail to meet the requirements of the development plan.
15. Evidently, the 33 flats subject to the earlier development have no amenity space. However, the prior approval process would have had its own limitations and requirements and I have little information before me as to how that decision was reached in terms of amenity space. As a planning application, I must consider the proposal against the requirements of the development plan and any material considerations.
16. I am informed there are several areas of public open space nearby, with the closest approximately 500m from the appeal site. However, these areas would be supplementary rather than a substitute for private amenity space and would not afford the opportunity for domestic activities such as drying clothes or sitting outdoors in a private space. This does not convince me the proposal is acceptable in this regard.
17. Based on the foregoing, the proposal would not provide suitable living conditions to future occupiers of the flats and would therefore be contrary to

² 0782/21

policies LP26 and LP29 of the RLP and D6 of the LP. These seek to ensure new development will provide external private and/or communal amenity space to meet the needs of occupants, among other things.

Other Matters

18. The appeal site is located within a zone of influence for likely impacts arising from residential development on the Epping Forest Special Area of Conservation (SAC) which is a European designated site. The site has also been designated as a Suitable Accessible Natural Green Space (SANG) by Natural England. Natural England has provided advice that any development in this area requires suitable mitigation to ensure that no adverse effects on its integrity would arise. The Council has produced the Epping Forest Special Area of Conservation Mitigation Strategy which requires a per-dwelling contribution along with a monitoring fee. The Council also has a standard 'Epping Forest SAC Mitigation Payment Letter' outlining details of the required mitigation payment if the development is approved. The evidence before me indicates that the appellant has paid the required amount to the Council in accordance with this guidance. As I am dismissing this appeal for other matters, I do not need to proceed in considering this matter any further.

Heritage and Planning Balance

19. The main parties agree that the Council cannot currently demonstrate a sufficient supply of housing land. Whether I take the appellant's figure of 1.83 years or not, the shortfall is evidently significant. In this scenario, footnote 8 of paragraph 11(d) of the Framework confirms that lack of suitable housing supply dictates that planning permission should be granted unless, as per paragraph 11(d)(i); the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
20. I take on board the appellant's argument that set against the housing shortfall identified, the contribution of nine additional dwellings in a location with good access to services and transport links is worthy of positive weight. This would weigh significantly in favour of the scheme.
21. However, the Framework attaches great weight to the desirability of preserving the significance of designated heritage assets. Less than substantial harm should not be equated with less than substantial planning objection. The public benefits associated with the appeal proposal as identified do not outweigh the harm I have identified and attached to the conservation of a designated heritage asset. Additionally, the statutory duties of the Act to preserve listed buildings and their settings have not been met.
22. As the proposal relates in part to the setting of a designated heritage asset, the application of policies in the Framework that protect areas or assets of particular importance, as given in footnote 7 of paragraph 11(d)(i), provide a clear reason for refusing the development proposed.
23. Alongside my findings in respect of the designated heritage asset, there would be harm to the character and appearance of the host building and the local area while the lack of appropriate private amenity space for future occupiers of

the proposal would not provide suitable living conditions. These considerations would be contrary to the development plan. Overall, when assessed against the policies in the Framework as a whole, despite the triggering of paragraph 11(d), the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusion

24. I conclude that the proposal would be contrary to the development plan as a whole and material considerations, including the provisions of the Framework, do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR