



Appeal Decision

Site visit made on 20 June 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/H5960/W/22/3312190

10-12, Balham Hill, London SW12 9EA

- 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 Kate Grose, Gleneil Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2022/1091, dated 12 March 2022, was refused by notice dated 1 June 2022.
 - The development proposed is change of use of part 3rd and part 4th storey of building from equipment rooms to 1 bed apartment with roof terrace.
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Decision

1. The appeal is allowed and planning permission is granted for alterations including addition of front windows and screening to roof and change of use of part 3rd and part 4th storey of building from equipment rooms to 1-bedroom flat with roof terrace at 10 to 12, Balham Hill, London SW12 9EA in accordance with the terms of the application, Ref 2022/1091, dated 12 March 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development as stated on the application form is set out above. The Council on its decision notice has described the development as 'alterations including addition of front windows and screening to roof and change of use of part 3rd and part 4th storey of building from equipment rooms to 1-bedroom flat with roof terrace'. This more accurately describes the proposals as it includes external alterations as shown on the plans. I have considered the appeal on this basis and used the revised description in my formal decision above.
3. The appellant has submitted additional information with the appeal which updates the Fire Safety Statement. The updated statement includes a strategy and plans to address the requirements of the London Plan 2021 (the London Plan). The Council and interested parties have had the opportunity to respond to this information. As such, I am satisfied the additional information on fire safety would not prejudice any party. I have therefore taken account of it in my consideration of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the host building, with particular regard to the significance of a non-designated heritage asset; and,
 - Fire safety

Reasons

Significance of non-designated heritage asset

5. The appeal building was formerly a cinema, now in use as a retail unit on the ground floor with 8 flats over 4 floors above. It has been identified by the Council as a locally listed building, and which comprises a non-designated heritage asset. Based on the evidence before me and my site visit, the significance of the building is its architectural and cultural historic association as a purpose built Odeon cinema constructed in the Art Deco style. Although the former cinema auditorium has been demolished, the front section of the building remains facing the main shopping street of Balham Hill at its junction with Malwood Road. The massing of the building and Art Deco detailing encompassing a cream tiled façade, curved sides, central tiled tower and 'fin' atop the building contribute to the building's distinctive character and appearance, and to its architectural and townscape significance.
6. Paragraph 203 of the National Planning Policy Framework (the Framework) requires me to take into account the effect of the proposal on the significance of this heritage asset. Paragraph 189 of the Framework sets out that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations
7. I have been presented with an undated photograph of the building which appears to have been taken while the building was still in use as a cinema. It is apparent that significant additions and alterations have been undertaken to the building since that time. These include, but are not limited to; numerous window openings within the tiled façade, in particular at third floor level, which also includes railings around the original projecting curved element of the building; a roof extension and a large number of telecommunications antennae attached to the central tiled 'fin'. Furthermore, detailing on the canopy over the wide ground floor entrance doors has been obscured by the current advertisement sign. Cumulatively, these alterations have diminished the character and appearance of the building and its heritage significance.
8. Although attempting to replicate the form and materials of the appeal building, the development of more modern, taller buildings to the north has further diminished the setting within which the building is experienced. Nevertheless, the building continues to appear as an anomaly to the prevailing pattern of development through its scale and architecture, which allows its historic cinematic association to continue to be appreciated.
9. The proposal would introduce four windows either side of the central tower which would punctuate the current blank upper façade of the central tower. In addition, the proposed balustrade atop the central tower, although glazed, would introduce further paraphernalia to the upper part of the building which would be visibly apparent when close to the building. However, the proposed windows would align symmetrically and in terms of design, size and position with other features on the front elevation of the building. Having regard to the existing modifications made to the building, the appeal scheme would still allow its previous cinema use and significant architectural features to remain evident. Nonetheless, the proposal would introduce additional modern features to the imposing architecturally designed central tower of the building which would cause minor harm to its significance in the context of the building at present.

10. The proposal would include the removal of several prominent and unsightly telecommunications antennae and other related equipment currently attached to the top of the central 'fin' and roof top of the appeal building. These are prominent, incongruous and significantly detract from the character and appearance of the building and which is harmful to the significance of the non-designated heritage asset.
11. The removal of the existing conspicuous equipment would reveal the original tiled exterior of the top of the central tower and positively expose its architectural context. This would therefore enhance the overall appearance of the building and would be a moderate benefit of the scheme.
12. No substantive evidence has been presented to me to indicate there would be 'no prospect at all' of the equipment being removed within the time limit imposed by the standard 3 year timescale¹. Consequently, as the appellant is not the owner of the land on which the telecommunications equipment is located, the requirement to remove the telecommunications equipment could be secured by a Grampian² condition.
13. In weighing applications that directly or indirectly affect a non-designated heritage asset, paragraph 202 of the Framework requires me to make a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. Given the limited scale of the proposed fenestration alterations and balustrade in the context of the site and its surroundings, I have found there to be minor harm to the significance of the appeal building. However, I consider this harm would be outweighed by the moderate benefit of the removal of existing telecommunications equipment on the building which would better reveal the significance of the building and enhance its appearance.
14. Against this background, taking a balanced judgement, I find that the benefit of the removal of existing telecommunications equipment on the building would outweigh the minor weight I attribute to the harm from the proposed windows and balustrade. Overall, the scheme as a whole would enhance the significance of the non-designated heritage asset. Accordingly, I conclude that the proposal would comply with Policies DMS1 and DMS2 of the Development Management Policies Document 2016 and Policy HC1 of the London Plan 2021 which, together, amongst other things, seek to sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of a heritage asset. It would also accord with the provisions of the Framework which seek, amongst other things, to preserve character and appearance and ensure that heritage assets are conserved in a manner appropriate to their significance.

Fire Safety

¹ Section 91(1)(b) of the Town and Country Planning Act 1990 and Planning Policy Guidance paragraph 21a-009-20140306

² Grampian conditions derive from *Grampian Regional Council v Aberdeen CC* [1983] P&CR 633. The key features of a Grampian condition are that it is negatively-worded, to prohibit the commencement of the development until some specified action takes place, and the required action must be on land that is not controlled by the applicant and/or must be authorised by another person or body.

15. Policy D12 of the London Plan requires all development proposals to achieve the highest standards of fire safety and sets out a number of criteria to which consideration needs to be given.
16. The 'Planning Fire Safety Strategy' and accompanying plans submitted by the appellant set out how each criterion within Policy D12 would be achieved. While I cannot comment on the specific detail provided, this information nonetheless demonstrates that the appellant has considered in detail the issues of fire safety before the Building Control application stage, as required in the guidance notes to Policy D12. The appeal proposal is not a major development, and the building is already in residential use.
17. Furthermore, the final design of the proposal would in any case be subject to Building Regulation approval prior to any development being undertaken and or completed.
18. I therefore conclude that sufficient information to demonstrate compliance with the aims of Part A of Policy D12 of the London Plan in terms of fire safety has been provided in this case. Therefore, no conflict would arise with Policy D12 of the London Plan which seeks to ensure the safety of all building users.

Conditions

19. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance³ in terms of the use of planning conditions. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. Both main parties have had the opportunity to review the proposed conditions.
20. In addition to the standard condition limiting the lifespan of the planning permission, a condition specifying the relevant drawings is necessary as this provides certainty. A condition requiring details of materials is reasonable and necessary in order to protect the character and appearance of the host building as the submitted plans are not specific in this regard.
21. I have imposed a condition relating to the removal of existing telecommunications equipment on the building which would need to be delivered through a Grampian style condition, as the ownership of the building is outside the appellant's control. The effects of the condition would also preclude the development from commencing until the equipment has been removed.
22. I have included the conditions suggested by the Council requiring cycle parking and the provision of refuse and recycling facilities as they are necessary in the interests of promoting modes of transport other than the car and to ensure adequate provision is made for cycle parking for future occupiers of the development and in the interests of hygiene and to promote recycling respectively. The Council's suggested condition relating to water efficiency is necessary in order to ensure appropriate evidence is provided of compliance with water use standards.

³ PPG Paragraph: 003 Reference ID: 21a-003-20190723

23. For clarity, I have imposed a separate condition relating to fire safety rather than the Council's suggestion to add the Fire Safety document to the list of approved drawings. As the explanatory text to Policy D12 of the London Plan clarifies, the matter of fire safety is covered by Part B of the Building Regulations. Therefore, the condition imposed acts as an additional safeguard so that the Council is aware of the fire safety measures within the building and can make appropriate comments and suggestions, if necessary, when considering the submission required under the terms of the condition imposed.

Conclusion

24. For the reasons given above, the proposal would accord with the development plan when considered as a whole, and there are no material considerations that indicate that a contrary decision should be taken. Therefore, the appeal should be allowed.

A Veevers

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun within 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following reports, specifications and drawings:
22/02/01 (Site Plan 1), 22/02/02 (Block Plan), 22/02/04 (Existing & Proposed Ground Floor Plan and Car Park), 22/02/05 (North & South Elevations Existing and Proposed), 22/02/06 (East & West Elevations Existing and Proposed) 22/02/07 (Existing 1st, 2nd, 3rd, 4th and Roof Level Plans), 22/02/08 (Proposed 1st, 2nd, 3rd, 4th and Roof Level Floor Plans), 22/02/09 (N-S and E-W Sections Existing and Proposed), and 22/02/10 (Proposed 3rd Floor Plan showing new drainage connection).
3. Prior to installation, details and samples of the precise design and materials to be used on all external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and thereafter so retained.
4. No development hereby permitted shall take place until all mobile phone telecommunications equipment has been removed from the building.
5. Prior to commencement of above ground works (excluding demolition), details of the location, number and design of secure and covered cycle parking shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details prior to the occupation of the development and be retained for cycle parking purposes for the users of the development and for no other purpose.
6. Prior to the commencement of above ground works (excluding demolition), details of the siting, design and materials of refuse and recycling storage to serve the development shall be submitted to and approved in writing by the local planning authority. The refuse storage facilities shall be provided in accordance with the approved details prior to occupation of the development and shall be retained thereafter.
7. Prior to occupation of the development hereby approved, details to demonstrate that the internal water consumption of the development will not exceed 105 litres per person per day (plus 5 litres for outside use) in line with the Water Efficiency Calculator for new dwellings from the Department of Communities and Local Government shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented in accordance with the approved details and retained for the lifetime of the development.
8. The development hereby permitted shall be carried out in accordance with the Planning Fire Safety Strategy (undated) but received with the planning appeal submission by the Planning Inspectorate on 30.11.2022, Fire Appliances Plan drawing no. 22/02/11 and Proposed 3rd and 4th Floor plan showing fire strategy and compartmentation drawing no. 22/02/12 and retained as such thereafter.