

Appeal Decisions

Site visit made on 24 October 2023

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal A Ref: APP/M2372/W/23/3322408

39-41 Hornby House, King Street, Blackburn BB2 2DH

- 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 Nextoria Ltd against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/22/1113, dated 24 November 2022, was refused by notice dated 8 March 2023.
 - The development proposed is change of use of 39 and 41 King Street to a C1 hotel comprising a total of 33 bedrooms, including use of ground floor for ancillary hotel reception/breakfast/lounge/games room and retention of ancillary manager's accommodation to the rear.
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Appeal B Ref: APP/M2372/Y/23/3322409

39-41 Hornby House, King Street, Blackburn BB2 2DH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Nextoria Ltd against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/22/1112, dated 24 November 2022, was refused by notice dated 22 March 2023.
 - The works proposed are alterations to the second floor to form internal room partitions and creation of roof windows to the south elevation to facilitate hotel use.
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for change of use at ground, first and second floors to a C1 hotel comprising a total of 33 bedrooms including ground floor ancillary hotel reception/breakfast/lounge/games room, and creation of roof windows to the south elevation at 39-41 Hornby House, King Street, Blackburn BB2 2DH in accordance with the terms of the application Ref 10/22/1113, dated 24 November 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Existing and Proposed Elevations (Dwg No. 2102-PL04); Proposed Ground Floor Plan (Dwg No. A01); Proposed First Floor Plan (Dwg No. A02); and Proposed Second Floor Plan (Dwg No. A03).

Appeal B

2. The appeal is dismissed.

Preliminary matters

3. These decisions address both planning and listed building consent appeals for the same site and the same scheme. The remit of each regime is different, and the main issues below relate either to the planning appeal (Appeal A) or to both appeals. To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together.
4. As the appeal relates to a listed building, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, as required by sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. The description of development given on the application form for Appeal A was changed during the application process. I have used the amended wording in the above decision but removed superfluous wording. For Appeal B, the description of development on the application form refers only to works on the second floor. However, it is clear from the appellant's submissions and plans that the proposal also relates to works on the ground and first floors, as well as to the roof and rear outrigger. I have determined the appeal on that basis.

Main Issues

6. The main issues are:
 - whether the proposed use is in a suitable location having regard to local and national policies for town centre development (Appeal A); and
 - whether the proposal would preserve the Grade II listed building known as 39 and 41 King Street (ref: 1273596) or any features of special architectural or historic interest that it possesses (both appeals).

Reasons

7. The appeal relates to a listed building, located within the King Street Conservation Area in Blackburn town centre. The proposal is for a 33-bedroom hotel, with reception lounge, breakfast bar and cafe. Existing manager accommodation to the rear would be retained. The appellant indicates that the building has been partly in use as a hotel for some three years, before which it was a public house.

Location

8. The Council's strategy for town centre development seeks to expand the role of the town centre with provision of compatible uses. To this end, policy 26 (Town Centres) of the Blackburn with Darwen Local Plan Part 2 (2015)(LP) identifies that appropriate new uses would include hotel accommodation. The National Planning Policy Framework (the Framework) also encourages tourism development in town centres, including hotels. The proposal is for a hotel and, in straightforward terms, the development would therefore accord with local and national policy ambitions to support the role of the town centre.
9. The Council contends that the scheme should not be treated as a hotel use but as a bed and breakfast use instead. However, that is not what is proposed. Moreover, the Council accepts that hotel and bed and breakfast uses are in any

case interchangeable within the scope of Class C1 of the Town and Country Planning (Use Classes) Order 1987 as amended. Even if the proposal was treated as a bed and breakfast in isolation from the Use Classes Order, that use would nonetheless still be consistent with the objective of policy 26 to expand the role of the town centre, particularly given the policy ambition to enhance the leisure offer in the town centre and develop an evening economy.

10. The need to manage over concentration of certain uses is referred to in paragraphs 5.18 and 5.19 of the supporting text in the LP. The Council's reliance on this is not convincing as no substantive evidence has been provided to demonstrate what the existing level of guest accommodation is in the town centre, or to what extent the proposal would consequently result in an over-provision of such accommodation. Furthermore, the quoted text does not relate to policy 26, nor indeed any of the policies referred to in the Council's reason for refusal. Rather it relates to managing specific uses within the town centre, with those being identified as hot food takeaways, betting offices and amusement arcades, not hotel or bed and breakfast accommodation.
11. The Council also suggests that the proposal may result in anti-social behaviour and crime, with reference to interventions by various authorities at the existing facility, amongst other matters. Copies of negative online reviews have also been provided. Whilst these fears are a material consideration that can carry some weight, I am not persuaded that the submissions are of sufficient weight to justify refusal of the proposed hotel use in land use planning terms. In other words, no compelling reason has been presented to me as to why a hotel use at the appeal site could not be operated in a responsible and acceptable way and, indeed, contribute positively to the physical, social, environmental and economic character of the area.
12. Overall, the proposed hotel use is in a suitable location having regard to local and national policies for town centre development. The proposal would comply with policies 8 and 26 of the LP and the Framework. Whilst policy 19 (Apartment Development and Houses in Multiple Occupation) is cited in the reason for refusal, this policy principally seeks to manage poor quality housing in housing areas and, consequently, it is not relevant to the proposed use as a hotel in the town centre.

Listed building

13. The listed building comprises two buildings dating from the late eighteenth century; having been originally built as private residences for wealthy townspeople. No 39 is 5 bays and 2 storeys in height with attic and basement; and No 41 is 4 bays with 3 storeys and basement. The listed building is distinctive for its largely unaltered and imposing red-brick Georgian frontage, with elevated and pedimented doorways, top moulded cornicing and pediment, and basket arched carriage entrance leading to the rear courtyard.
14. Much of the interior of the listed building has been altered throughout its history. Residential uses on King Street became unfashionable for the wealthy in the early to mid-nineteenth century, with the surrounding area subject to increasing industrialisation and diversification of uses, including large scale mills and banks of terraced worker housing. The first and second floors of No 39 are now large, undivided spaces reflecting the former adapted use as a pharmaceutical warehouse in the early twentieth century. The first-floor space is interrupted only by four small circular cast columns supporting large span

roof beams. The second-floor space is spanned by exposed timber A-beams and both front and rear roofs are lit with continuous roof lights extending across the width of No 39.

15. Given the above, the special interest of the listed building is derived from its largely unaltered frontage and the subsequent historic adaptations to the interior of the building, which continue to provide architectural and fabric evidence important to the significance of the listed building, and to the understanding of the evolution of historic uses in the building and the surrounding area.
16. The proposal for the second-floor space involves subdivision into bedrooms. In plan form, the dividing walls would broadly align with the A-frame trusses. This would avoid the need for any new windows to the frontage of the building, thereby preserving some of the most significant aspects of the listed building.
17. The existing exposed A-frame and continuous rooflights create a roof with a highly distinctive internal shape and form, that is integral to this attic space and its former warehouse use. However, it is not clear how this space would be treated. In terms of the A-frame trusses, the amended plans indicate that the proposed dividing walls would, in some instances, be constructed alongside the existing trusses and, elsewhere, would be built around the trusses. Where the trusses would remain exposed, their significance would be retained, but the drawings are not consistent in this respect.
18. Turning to the continuous rooflights, a very basic cross-sectional drawing has been provided which, on one hand, indicates that the upper roof section, with the A-frame and rooflights, would be separated entirely from the bedrooms and hallway. This division would result in some of the most significant internal features of the space being wholly hidden from view. On the other hand, the amended plans indicate that the bedrooms would be lit with the existing continuous rooflight, suggesting that the upper roof space would somehow be incorporated into the bedrooms. However, notwithstanding the reference to chutes on the superseded plans, it is not clear how the junction between the existing rooflights, the proposed walls, and any chutes, would be treated.
19. Overall, whilst there is scope for the significance of the attic to be retained by the proposal, the level of detail is so poor that I cannot be confident that a scheme could actually be developed successfully in the manner suggested. Given the significance of the trusses and rooflights to the listed building and to the interpretation of the attic space as a whole, and the lack of appropriately detailed and consistent drawings, the proposal would be harmful in respect of the internal second floor attic.
20. Individual rooflights are proposed to serve each of the rear rooms on the second floor. The external visibility of these would be limited to very oblique views from the rear courtyard, beyond which views would be restricted by intervening structures. The loss of historic roof fabric would be limited and, overall, the proposed rooflights would not have a harmful impact upon the special interest and understanding of this attic and the listed building.
21. The expanse of the first floor would also be lost through subdivision of the space into bedrooms. Here, the existing circular cast columns would remain visible in the corridor, allowing the former warehouse space to be read and understood to some extent. Each of the proposed rooms would also be aligned

with a window bay, thereby foregoing the need for new windows, with the exception of one room in the rear outrigger where a new window is proposed. That proposed window is not shown on any elevation but could be subject to a condition agreeing specifications, and there would be no loss of significant historic fabric. I agree with the Council that the overall effect of the subdivision to this first-floor space would be negligible, albeit that this is still harmful.

22. The above identified harms would, when taken together, be detrimental to the legibility of historical adaptations to the listed building. In the wording of the Framework, I qualify that the degree of harm would be less than substantial, but nevertheless of considerable importance and weight. Paragraph 202 of the Framework sets out that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
23. In terms of public benefits, the proposed hotel use would contribute to expanding the role of the town centre and support the development of an evening economy. The proposal would also represent some investment in the fabric of the listed building. However, the case has not been made convincingly that the proposals are the only means by which to ensure the longer-term conservation of the listed building, nor the least invasive and harmful way to secure a use for the building.
24. In respect of Appeal B, even cumulatively, the identified public benefits are not sufficient to outweigh the harm that I have found in respect of both the first and second floor. The proposal would fail to preserve the Grade II listed building known as 39 and 41 King Street or features of special architectural or historic interest that it possesses. Conflict therefore arises with section 16(2) of the Act and the historic environment policies in the Framework.
25. Turning to Appeal A, internal works do not comprise development insofar as the application for planning permission is concerned, and therefore are not included in the balance of harms. The development would preserve the listed building and features of special architectural or historic interest that it possesses. The development would comply with the expectations of section 66(1) of the Act, the historic environment policies of the Framework, and policy 39 (Heritage) of the LP and policy CS17 (Built and Cultural Heritage) of the Blackburn with Darwen Core Strategy 2011 which together require development to sustain the significance of heritage assets.

Conservation Area

26. The listed building is located within the King Street Conservation Area. The effect of the development on the conservation area is not evidenced as a matter of concern to the Council. The proposed alterations to the exterior of the listed building would not be seen from the public domain and, with regard to s72(1) of the Act, I conclude that the proposal would preserve the character and appearance of the conservation area.

Conditions

27. The Council have suggested that two conditions be attached to the planning permission, in addition to those requiring standard compliance. The first condition seeks to do two things. First, it would limit the ground floor to use as

a Class A4 drinking establishment. However, this is neither a use proposed by the application nor a current use class under the 1987 Order, as amended. Second, the condition further proposes to restrict the use to a hotel use within Class C1, that is, to prevent boarding and guest house use. However, given my above findings on expanding the town centre and the evening economy, this is not necessary. The second condition proposes that the hotel be required to implement a strategy for the management of patrons, but I am not persuaded that this would be either necessary for a hotel use or sufficiently well related to land use planning.

28. The Council have not suggested any conditions with regard to the detailing of the external works, those being the rooflights and the rear outrigger window. In any case, these alterations, along with the other works requiring listed building consent, cannot be implemented without a listed building consent being in place. Any such listed building consent can be expected to have appropriate conditions attached relating to detailing and, consequently, I have followed the Council's approach and not attached any detailing conditions to the planning permission.

Conclusion

Appeal A

29. For the reasons set out above, and having regard to all other matters raised, I conclude that Appeal A should be allowed.

Appeal B

30. For the reason set out above, and having regard to all other matters raised, I conclude that Appeal B should be dismissed.

Patrick Hanna

INSPECTOR