



Appeal Decision

Site visit made on 16 January 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/W5780/W/23/3321259

42 - 48 North Building, High Road, South Woodford, Redbridge, 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 Mr R Davis of Fairbid Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0009/23, dated 3 January 2023, was refused by notice dated 13 March 2023.
 - The development proposed is third floor extension to contain 8no. self-contained flats (7 x 1 bedrooms and 1 x 2 bedrooms) with associated cycle storage, waste/refuse storage and amenity space. Alterations to fenestrations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development as set out in the heading above is as described on the application form, except for the inclusion of '(summary)', which I have removed.
3. The site, which was a former office block, had been converted¹ to apartments by the time of my site visit. The evidence has also directed me to a previous scheme to extend the building which was subject to an appeal².
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Whilst there have been changes to the section on Housing, the principles that apply to this decision remain the same. Consequently, it has not been necessary to request observations from the main parties upon any implications of the revised Framework's publication.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area and whether it would preserve the setting of a listed building.

Reasons

6. The appeal site is a two-storey, red brick building with a mansard roof. It is arranged in two main blocks, one fronting High Road, and the other larger block to the rear, connected by a three-storey link.

¹ Ref: 0782/21/01 Prior approval required and granted for conversion of building to 33 apartments.

² APP/W5780/W/22/3306892.

7. The building sits both adjacent to, and to the rear of No 32-44³ High Road which is a grade II listed building (the LB). On the other side of the appeal site is a car sales premises. Opposite the site are two, four storey blocks of flats, Dale Court and The Chiltons, which lie either side of the junction with Grove Hill. The general character of the area is one of both residential and commercial properties of varying styles and periods.
8. The significance of the LB, in as far as is relevant to this appeal, stems from its architectural and historic interest. It consists of a row of three attached buildings of 18th century date. The central one is constructed of brick with a tiled roof and has a board on the front ascribing it to having been built in the reign of George II. The buildings on either side have shop fronts on the ground floor and are finished in stucco with a balustraded parapet. Their significance stems from their survival and evidence of buildings and shops that would have always been part of a commercial centre lining the adjacent road.
9. The LBs are located opposite the Grove Hill road junction. This is a wide junction, separated from the land either side by low walls and extensive grassed areas to the front of Dale Court and The Chiltons. Likewise, the road running past the LB and the appeal site is wide. This provides an expansive and open view of the LB, and this setting contributes to the significance of the LB. As the LB is set forward within the streetscape and is not connected to buildings either side, the architectural features and character of the LB, stand out from those around it.
10. On the other side of the LB, Nos 10-30 High Road is a 3-storey parade with shops on the ground floor. Whilst the row is taller than the LB, their rectangular form harmonises with the LB. This is because of the architectural character of the LB, where the parapet on the two outer buildings and the taller roof form of the middle building in the group creates a balanced line of buildings with those beyond it. The appeal site, with its plain brick façade, continues this general rhythm of building form along the street which has a neutral effect on the setting of the LB.
11. The proposal includes a brick-built, 3rd storey, to replace the existing mansard roof, with above this, a new mansard roof where the additional 8 flats would be located. Mansard roofs are not characteristic of this immediate area, but because of the height of the current building and that the roof level is set back from the elevations, the overall massing of the building is reduced resulting in it blending in with the surrounding architecture.
12. However, the construction of a brick-built 3rd storey, topped by another mansard roof, would change this. The increase in height would highlight its difference from the surrounding buildings where the dominant roof form is either flat, or appears flat, because of the presence of a parapet. This would appear incongruous in this location.
13. Additionally, as the appeal site is located close to the pavement edge, the resulting height increase would result in the building appearing overly dominant. Unlike, Dale Court and The Chiltons opposite, which have trees and large expanses of grass to the front, there is no room for significant landscaping which would soften the effect of the increase in height of the elevations on the appearance of this part of High Road. The proposal would

³ As defined in the listing description but it is actually 32-40 High Road.

encroach into the streetscape in a way that would harm the character of this part of the area.

14. There are taller buildings in the vicinity of the appeal site, Dale Court and The Chiltons, as well as the five-storey block which has been cited, further along High Road. However, they are sited further back from the road with space around them. This means that, despite their height, they do not appear overbearing on the surrounding area. Notwithstanding these examples, four and five storey buildings are not the prevailing building height in this area. Therefore, increasing the height of the appeal site would appear discordant in this particular location.
15. Whilst Computer Generated Imagery has been submitted to show the scale of the proposal in relation to the LB, the increase in height would result in it being taller than those nearby buildings on this side of High Road. This would compete with and overshadow the LB, and would alter the visual balance that currently exists between the appeal site and the LB. This is because of the existing neutral effect resulting from its plain facades, brick construction, height, and form, and that the building is sited away from the LB. Therefore, whilst the proposal does not harm the LB itself, it would harm its significance by way of the harm to its setting.
16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when considering whether to grant planning permission for development affecting a listed building or its setting, that there must be special regard to the desirability of preserving the building or its setting. Furthermore, paragraph 205 of the Framework states 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.
17. Therefore, for the above reasons, I consider that the proposal would harm the ability to appreciate the LB and thus fail to preserve the significance of the listed building. This would conflict with section 66(1) of the Act. Furthermore, the scale, form and design of the proposed development would harm the character and appearance of the area.
18. In the terms of the Framework, the degree of harm would be less than substantial harm to the significance of the listed building, and this harm should be weighed against the public benefits of the proposal. The benefits of the scheme are the provision of an additional 8 residential units in an accessible location where there has been a shortfall of housing over a number of years. This provides a moderate benefit.
19. Whilst the level of harm has been subdivided by the parties, and it is suggested that it represents a 'low level' of less than substantial harm, this is not defined in the Framework. In line with paragraph 205 of the Framework, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
20. I have found, however, that the proposal would conflict with the Framework's policies relating to the conservation of heritage assets, and the less than substantial harm that I have identified to the LB would outweigh any public benefits.

21. Therefore, the proposal would harm the character and appearance of the area and would cause less than substantial harm to the significance of a LB. It would conflict with Policy HC1 of the London Plan (LP), 2021, and with Policies LP26 and LP33 of the Redbridge Local Plan (RLP), 2015-2030, March 2018. These policies collectively require good design that respects the local character of an area, and conserves and enhances the character and significance of heritage assets, including listed buildings.

Other Matters

22. The site is in a convenient location, close to shops and the South Woodford town centre, as well as near to a tube station. Furthermore, there is no dispute that the amenity space, car parking, cycle parking and refuse storage for the proposal is acceptable. This is a neutral factor.
23. The site is within 6 kilometres of the Epping Forest Special Area of Conservation (SAC) which is afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Advice has been provided by Natural England that any development within 6.2km of the boundary of the SAC requires suitable mitigation to ensure that there would not be a harmful impact on the SAC. As such, based on this advice the Council requires that schemes resulting in additional residential units are subject to Strategic Access Management Measures (SAMM) which support the delivery of this within the SAC. This requires a payment per unit, plus a monitoring fee in the form of a planning obligation. Whilst the appellant has provided a signed and dated section 106 agreement, and evidence of the payment having been made, as I am dismissing the appeal, I do not need to consider this matter further.

Balance

24. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing land. Its' Housing Delivery Test 2021-2022 also shows that the Council only delivered 48% of its housing requirement for the three years up to this period. Therefore, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework must be considered.
25. This states at 11 d) that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless, as in 11 d) i the application of policies in the Framework that protect areas or assets of particular importance, including listed buildings, provide a clear reason for refusing the development proposed. Consequently, the proposal does not benefit from the presumption in favour of sustainable development and, moreover the Framework does not indicate that permission should be granted.
26. A third party has stated that they would be interested in a 3rd floor flat as the condition and location of their current flat is impacting on their health. I have had due regard to the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010. The development in this respect would meet the needs of a person who has protected characteristics due to their disability.
27. I have also taken into consideration the Human Rights Act (HRA), 1998, and recognise that the dismissal of the appeal would interfere with some of the

third parties' rights under Article 8 of the First Protocol. Article 8(1) states that everyone has a right to respect for their private and family life, their home and their correspondence. However, in this instance the third party is only expressing an interest in living within the building and I have no information as to how the proposed development would be allocated, and there is no mechanism to secure who would occupy it.

28. Special regard must also be made to preserving a LB and its setting. Therefore, I consider that it is in the wider public interest to interfere with the qualified rights under Article 8. In making this decision, I consider that any interference with those rights is necessary and proportionate and in accordance with the law. Similarly, with the PSED, the harm that would be caused to the LB outweighs the benefits in terms of eliminating discrimination against persons with the protected characteristics due to their disability. I must conclude that it is proportionate and necessary to dismiss the appeal.

Conclusion

29. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the Framework, that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.
30. For the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR