



Appeal Decisions

Site visit made on 5 June 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal A Ref: APP/Y3615/W/23/3329791

Regent House, Ward Street, Guildford GU1 4LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Areawise Ltd against the decision of Guildford Borough Council.
 - The application Ref is 21/P/02471.
 - The development proposed is change of use of building from Class D1 (Education) to Class C3 (Residential) to form 9 flats together with alterations.
-

Appeal B Ref: APP/Y3615/Y/23/3329795

Regent House, Ward Street, Guildford GU1 4LH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Areawise Ltd against the decision of Guildford Borough Council.
 - The application Ref is 21/P/02472.
 - The works proposed are the same as Appeal A.
-

Decision Appeal A

1. The appeal is dismissed.

Decision Appeal B

2. The appeal is allowed and listed building consent is granted for change of use of building from Class D1 (Education) to Class C3 (Residential) to form 9 flats together with alterations at Regent House, Ward Street, Guildford GU1 4LH in accordance with the terms of the application Ref 21/P/02472 and the plans submitted with it, subject to the 9 conditions set out in the attached annex.

Preliminary Matters

3. The appeal form for Appeal A refers to P P Academy, Regent House, 6 Ward Street, whereas the application form for both appeals only refers to Regent House, Ward Street. For consistency, I have used the latter address.
4. The appellant has submitted an additional plan at the appeal stage (ref J19126w Rev K) showing amendments to the proposed lower ground floor and ground floor. Principally, the amendments concern the provision of internal cycle parking where Flat 2 is currently proposed, with changes to Flat 2 to make it a duplex. Consequential changes are also made to the layouts of Flat 1 and Flat 4, a rear external door would be provided for the cycle store rather than a window, and Flat 5 is removed from the ground floor.
5. No amendments are proposed for the upper floors, although the total number of flats would reduce from 9 to 8. It is unfortunate that I have not been provided with amended plans for the upper floors or elevations, because the flat numbering would change and a door rather than window would be located

at the rear. Nevertheless, despite concerns from the Council about the lateness of the additional plan, I do not consider that it would prejudice any interested party if I were to consider it. Therefore, the additional plan has formed part of my assessment.

6. The Guildford Local Plan Development Management Policies 2023 (LPDMP) was adopted on 22 March 2023, two days after the Council issued its decisions. It has been clarified that the adoption of the LPDMP superseded policies from the Local Plan 2003 which were referenced in the decision notices (specifically Policies HE2, CF2 and NE4).

Main Issues

7. The main issue common to Appeals A and B is the effect of the proposal on the special interest of the Grade II listed building known as Ward Street Temperance Hall.
8. The main issues relating only to Appeal A are as follows:
 - (a) the effect of the proposal on the living conditions of future occupiers of the development;
 - (b) whether the proposal would make adequate provision for cycle parking; and
 - (c) the effect of the proposal on the provision of community facilities.

Reasons

Listed building

9. Regent House is a Grade II listed building. It was listed in 1984 as "Ward Street Temperance Hall including railings" and is described as a former temperance hall in the listing details. It dates from 1876 and was built in the High Victorian Pointed Gothic style. The front elevation utilises coursed sandstone with ashlar dressings and a slate roof. There are two central gables in-between a gabled wing and pyramidal roofed tower. The front window arches and main entrance are pointed although the windows and doors are modern replacements. The rear elevation is plainer, with brick dressings, tall pointed windows and gablets in the roof.
10. The listing details refers to the building as one storey and attic over basement, which reflects its former use as a temperance hall. Externally, this still appears to be the case. However, the building was converted into offices in the early 1990s and then to an education/dance studio with ancillary offices in the early 2010s. Modern flooring has been inserted to create four floors plus loft space, some of which cuts across the windows at the rear. Modern partitions along with toilets, changing rooms and kitchenettes further subdivide the space. Internally, there appears to be very little surviving historic fabric apart from the arches of the original roof trusses and there is little sense of the original temperance hall space.
11. Nevertheless, the listed building has considerable architectural interest due to its rich and detailed external appearance, which extends to the rear elevation albeit in a less grand manner. It also has significant historic interest as a former religious and community building. This informs its overall special interest as well as its significance.

12. The heritage statement submitted with the original applications was relatively brief, particularly in terms of assessing the building's history and fabric. The heritage assessment submitted with the appeals provides more details and clarifies how little internal fabric remains. Therefore, I consider that sufficient information has been submitted to understand the significance of the listed building as required by paragraph 200 of the National Planning Policy Framework (NPPF).
13. The proposal would result in very few changes to the external appearance of the listed building save for new doors as needed and the lowering of the window sill of the tall windows on the rear elevation, both of which could be controlled via condition in terms of materials and making good any work. Internally, some modern partitions and bathroom/kitchen suites would be removed, and new partitions and suites added. Some existing modern doorways would be blocked up and new openings created. However, given the extent of existing modern features and spaces, these changes would have very little effect on the listed building. There is little indication that the roof arches would be lost.
14. In conclusion, the proposal in both appeals would preserve the special interest of the listed building and not cause any harm to its significance. Therefore, the proposal would accord with Policy D3 of the Guildford Local Plan Strategy and Sites 2015-2034 (LPSS) and LPDMP Policies D18 and D19 which, amongst other things, seek to conserve and enhance the historic environment including listed buildings and ensure sufficient supporting information has been submitted.
15. The proposal would also adhere to NPPF paragraphs 205 to 208 which seek to avoid harm to the significance of designated heritage assets and give great weight to their conservation. It would also follow Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require decision makers to have special regard to the desirability of preserving the listed building when considering any proposed works. Section 72 of the same Act confers a similar duty on conservation areas, but this is not relevant to this main issue and the parties are not in dispute on conservation area effects.

Living conditions

16. Flat 3 is proposed to be a 2 bedroom 3 person duplex on the ground and lower ground floors at the front of the building. The current space is used as a hallway and corridor with a vacant office on each floor in the front gabled wing. The office on each floor would provide sufficient space for a double bedroom. However, the hallway and corridor are long and narrow and would have a spiral staircase at one end. Consequently, the space on each floor would feel cramped and inadequate for the proposed living room and kitchen/diner. Both floors would receive sufficient light due to the tall windows and lightwell, but this would not overcome the negative effects arising from the contrived layout.
17. Flats 8 and 9 are proposed to be 1 bedroom 1 person duplexes on the second floor and loft. There would be adequate lighting and space on the second floor for the proposed living spaces. However, the bedroom for each flat would be in the loft and accessed via spiral staircases. At my site visit, I observed that the loft space is quite restricted with limited headroom and no natural light. The plans show an area of 1.5m head height only above the double beds, which means the rest of the bedrooms would be constrained by the eaves. Even

getting into and out of bed could be problematic and the siting of wardrobes and other furniture would be difficult. The proposed rooflights would provide some light although would be quite small, and natural light from the second floor below would be limited. The appellant's internal daylighting assessment has only been carried out for the ground and lower ground floors. Therefore, based on the evidence before me, there would be negative effects arising from the contrived layout and restricted natural light.

18. NPPF paragraph 129(c) states that a flexible approach should be taken in applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site, as long as the resulting scheme would provide acceptable living standards. While the building is listed and so presents some potential constraints to development, the proposal would not provide acceptable living standards in terms of the contrived layout to Flats 3, 8 and 9. Therefore, any deficiencies in the levels of natural light to the loft space would not be justified.
19. In conclusion, the proposal in Appeal A would have a negative effect on the living conditions of future occupiers of the development. Consequently, it would not accord with LPSS Policy D1 which requires all new development to achieve high quality and inclusive design. It would also not adhere to NPPF paragraph 135(f) which seeks places with a high standard of amenity for existing and future users.

Cycle parking

20. The Council has indicated that one cycle parking space is required per unit. LPSS Policy ID3 requires development to maximise where possible the provision of secure, accessible and convenient cycle parking.
21. The plans determined by the Council show 8 bicycle parking spaces for 9 flats situated along the lower ground floor of the rear elevation. The rear of the building is only accessible from via a passageway under Haydon Place to the west which leads to a car parking area for various adjoining properties. The 8 external spaces would not be covered or secure and would be insufficient in number for 9 flats. Therefore, it would not make adequate provision for cycle parking contrary to LPSS Policy ID3.
22. The amended plans include an internal cycle parking store for 8 bicycles. A new door at the rear would allow for a secure area and, given the reduction in the number of flats from 9 to 8, there would be sufficient parking space. Therefore, based on the amended plans, the proposal would make adequate provision for cycle parking in accordance with LPSS Policy ID3.

Community facilities

23. LPDMP Policy ID7, amongst other things, requires that community facilities will be retained for the benefit of the community. Proposals resulting in their loss or change of use will be resisted unless it is demonstrated that either (a) adequate alternate provision exists or a replacement facility of an equivalent or better standard is to be provided in a location equally or more conveniently accessible to the facility's current catchment area, or (b) there is no longer a need for the facility in its existing or alternative community use and its retention for such uses has been fully explored without success.

24. In the supporting text, paragraph 6.52 clarifies that community facility includes education (formerly Use Class D1 and now Use Class F1). Paragraph 6.61 requires, in most cases, a continuous period of comprehensive and active marketing of an existing facility for its current or alternate community use, reflecting a fair market value. The paragraph also says it is important that the exploration of a facility's continued community use extends to direct engagement with a range of providers as relevant regarding the potential lease or purchase of the facility for community uses. It requires evidence to be in line with LPSS Appendix 4.
25. LPSS Appendix 4 requires marketing via a recognised commercial agent at a price that genuinely reflects the market value of the current or last use of the site. It must be shown that marketing has been unsuccessful with sufficient detailed information provided. The appendix sets out a list of evidence required to show active marketing.
26. Although the appeal building was only used for education purposes for around 10 years, it is the current lawful use. The fact that it was a private dance academy does not detract from its use as a community facility. Therefore, LPDMP Policy ID7 applies. The building was first marketed in December 2019, initially for rental only, and then for rent or sale from January 2022 onwards. The marketing included an agency board on the front elevation, property details sent to local agents and potential applicants looking for Class B1 or D1 premises, and online advertising via various websites.
27. Although the agency board only referred to office or studios to let (and still does based on my site visit observations), the original property details clarified that it could be used for either offices (Class B1) or non-residential training centre (Class D1). Evidence has also been provided of the different commercial websites that have been used for advertising with the property available for purchase. However, most of the website extracts¹ provided only refer to the property as an opportunity for an owner/occupier investor with potential for residential conversion subject to planning.
28. Little reference is made in the evidence to marketing for community and/or education uses or approaches to relevant community facility providers. Some initial interest was shown from a range of education, charity, recreational and office companies but nothing progressed very far and this information has not been updated since November 2021. There is also little information on whether the property has been marketed at a reasonable price for its last use.
29. The estate agent's report cites the lack of car parking, poor accessibility, the inflexibility to sublet the building, and a decline in interest for office space following the Covid 19 pandemic as reasons for the low interest. However, despite the lengthy marketing period, there is insufficient detail regarding the marketing of the property for community use and whether the values sought were reasonable. Therefore, it cannot be assumed that there is insufficient interest in the property as a community facility.
30. In conclusion, it has not been demonstrated that the proposal would have an acceptable effect on the provision of community facilities. Consequently, it would not accord with LPDMP Policy ID7 and LPSS Appendix 4.

¹ Invest in Surrey, Owen Isherwood, LoopNet, On The Market, Zoopla and Novaloca

Other Matters

31. The supporting text to LPDMP Policy H5 notes that the conversion or sub-division of buildings is a popular and efficient way to provide additional smaller living units, with the policy itself requiring acceptable effects on local character, neighbouring amenity, and sufficient amenity space, parking, bin storage and cycle parking. While there may be no apparent conflict with this policy, there would be conflict with policies relating to living conditions and community facilities. The inadequate living spaces for Flats 3, 8 and 9, and the lack of justification for loss of a community facility carries significant weight against the proposal in Appeal A. The adverse impacts would not be outweighed by the benefit of providing of 8 or 9 dwellings or securing the future use of the listed building. The proposal in Appeal A would be contrary to the development plan with insufficient material considerations to indicate that permission should be granted.
32. In its statement of case, the Council refer to potential adverse effects on the living conditions of occupiers of flats to the west of the appeal building in terms of privacy. It is unclear why the Council only raised this at the appeal stage, but given my findings on the main issues, it has not been necessary to consider this in any detail.
33. The site is within the 400m-5km Thames Basin Heath Special Protection Area (SPA) buffer zone. New residential development in this zone has the potential, either alone or in combination with other projects, to have a likely significant effect on the integrity of the SPA through increased dog walking and recreational use. On this basis, it would be necessary to carry out an appropriate assessment (AA) as part of my decision on Appeal A were I minded to allow this appeal. However, given my findings on the main issues and the overall balance above, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. Therefore, it is not necessary for me to consider this matter any further.
34. The proposal in terms of Appeal B would preserve the special interest of the listed building. Therefore, there is no reason to withhold listed building consent even though it cannot be implemented without a valid planning permission. As such, I conclude that Appeal B should be allowed. The formal decision above requires the works to be in accordance with the submitted plans. In addition to the standard time limit condition, it is necessary to impose conditions relating to construction methods and materials to ensure a satisfactory effect on the significance of the listed building.

Conclusions

35. For the above reasons, and having regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B allowed.

Tom Gilbert-Wooldridge

INSPECTOR

Annex: Conditions for Appeal B (APP/Y3615/Y/23/3329795)

- 1) The works authorised by this consent shall commence not later than 3 years from the date of this consent.
- 2) No works shall take place until detailed drawings and/or samples of all new or altered internal and external joinery details including windows (depth of reveal, method of opening, details of heads, cills and lintels and any secondary glazing), doors frames (architraves, linings, mouldings and beading), staircases (including balusters, newel posts and handrails); beading and skirting boards have been submitted to and approved in writing by the local planning authority. The submitted details should be at a scale of not less than 1:20 sample elevations, horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall be carried out in accordance with the approved details.
- 3) No demolitions, stripping out, removal of structural elements, replacement of original joinery or fittings and finishes shall be carried out except where shown and noted on the approved drawings.
- 4) No interior or exterior fixtures or fittings other than those subject to the works hereby permitted shall be removed or altered.
- 5) All new works including making good shall be carried out in accordance with details to be submitted to and approved by the local planning authority, demonstrating that the finishing materials match those of the existing heritage asset in size, colour, texture, profile, finish, bonding and pointing.
- 6) The rooflight windows hereby approved shall be of a 'conservation type', have steel or cast metal frames fitted flush with the adjoining roof surface, and shall not project beyond the plane of the roof.
- 7) Prior to the commencement of works, details relating to the position, type and method of installation including new openings of all new and relocated services and related fixtures (for the avoidance of doubt this includes plumbing, ventilation, communications and information technology servicing) are to be submitted to and agreed in writing by the local planning authority. The works shall be carried out in accordance with the approved details and thereafter retained.
- 8) No works shall be commenced on site until the methodology for the levelling of the floor within the existing entrance porch to the west of the faux doors at ground floor level for flat 3 have been submitted to and agreed in writing with the local planning authority. The works shall be carried out in accordance with the approved details and thereafter retained.
- 9) Prior to the commencement of works, full details of the methodology for the conversion of the loft space to a mezzanine floor shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.