



Appeal Decisions

Site visit made on 27 February 2024

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal A Ref: APP/N1730/W/23/3327743

113A High Street, Odiham, Hook, Hampshire RG29 1LA

- 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 Mr R Popplewell against the decision of Hart District Council.
 - The application Ref is 22/01515/FUL.
 - The development proposed is described as 'conversion of First floor (and small section of ground floor) into residential property of one bedroom apartment.'
-

Appeal B Ref: APP/N1730/Y/23/3327754

113A High Street, Odiham, Hook, Hampshire RG29 1LA

- 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 Mr R Popplewell against the decision of Hart District Council.
 - The application Ref is 22/01516/LBC.
 - The works proposed are described as 'conversion of First floor (and small section of ground floor) into residential property of one bedroom apartment.'
-

Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Preliminary Matters

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023, after the Council made its decisions. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. I have had regard to the revised Framework in my determination of the appeals.
5. Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) sets out that listed building consent is required for any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. Whilst the proposal includes works that could reasonably be concluded to fall within the scope of section 7, from the evidence before me, they are not of concern to the Council¹ and do not form part of the

¹ Council's officer report and Appeal Statement sets out that 'the proposed works would not result in harm to the listed building and may result in some public benefit.'

reasons for refusal to grant listed building consent². It is on this basis that the appellant submits that listed building consent was improperly withheld.

6. Given the discrepancies in the Council's case, the parties were given the opportunity to comment on this matter. The appellant replied, reiterating their view that listed building consent was improperly withheld. No reply was received from the Council.
7. I concur with the appellant in so far as listed building consent should not have been refused on the basis of the reasons set out in the Council's decision notice. Nonetheless, as decision maker, in determining the appeals I am required to assess the proposal against the relevant statutory duties contained within the Act. Given that the parties have had the opportunity to comment on this issue, I am satisfied that their interests are not prejudiced by this approach.

Main Issues

8. The main issues in Appeal A are:

- The effect of the proposal on i) the employment use of the site; ii) Odiham High Street as a 'Local Centre'; and iii) the living conditions of neighbours, with regard to privacy.

Further main issues in Appeal A and the main issues of Appeal B are:

- Whether the proposal would i) preserve the Grade II listed building, 113 High Street or any features of special architectural or historic interest which it possesses; and ii) preserve or enhance the character or appearance of the Odiham Conservation Area.

Reasons

Employment use

9. The appeal site (the site) is located on High Street, the main thoroughfare which runs through the centre of Odiham. The property comprises an opticians (retail use) on the ground floor and an associated 'optical workshop' (ancillary space/storage) on the first floor³ which is accessed by a staircase from the ground floor retail space.
10. The proposal involves the change of use of the first floor and part of the ground floor to residential to provide a single, one bedroom apartment. It is common ground between the parties that the lawful use of the ground floor is retail use⁴, formerly use class A1. However, the parties disagree as to the lawful use of the first floor which is relevant to the first reason for refusal in Appeal A. The Council assert that there is no planning history to suggest that the first floor was ever lawfully converted from an office use, formerly use class B1. The Council therefore submits that Policy ED2(3) of the Hart Local Plan (Strategy and Sites) 2032 (2020) (the HLP) is relevant. This policy requires justification

² The two reasons for refusal cited in the Council's decision notice refusing listed building consent concern effects of the proposal on the vitality and viability of High Street, and on the character and appearance of the Conservation Area due to the threat to the ongoing viability of an active shopfront.

³ As stated in the application form by the appellant and the Council's Officer Reports.

⁴ Ground floor and First Floor granted permission for offices in 1989 and the ground floor was granted permission for retail in 1991.

for development which would result in the loss of an existing employment use within the B use class at 'Other Employment Sites'.

11. Conversely, the appellant contends that it would be reasonable to conclude that the 'office use' would have been use class A2, not B1. In addition, there has been a period of around 30 years since the permission relating to the retail use of the ground floor was granted, and in that time the site has been used over a period in excess of 10 years as ancillary to the optician use, making the use lawful through time. As such, they submit that Policy ED2 is not relevant.
12. It is not a matter for me in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (as amended) (the T&CP Act), to determine whether or not the use of the first floor as ancillary to the ground floor retail use has subsisted for a period of 10 years or more. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the T&CP Act. Any such application would be unaffected by my determination of Appeal A.
13. In considering the employment use of the site and the relevance of Policy ED2 to the proposal, the evidence submitted by both parties is negligible and ambiguous. That said, I have no reason to question the appellant's case on this matter which, I note, has not been directly challenged by the Council.
14. Consequently, I have considered the appeal on the basis of what is stated in the application form at the time of its submission, namely that the first floor use is ancillary to the ground floor retail use, formerly use class A1. Therefore, Policy ED2 is not relevant to the proposal. Additionally, whilst the proposal would involve the loss of ancillary space/storage use on the first floor, from the evidence before me, it would not result in the loss of the retail/employment use at ground floor level.
15. The Council's reason for refusal on this matter also refers to conflict with Policy 9 of the Odiham and North Warnborough Neighbourhood Plan 2014 – 2032 (2017) (the NP), which sets out that proposals for a change of use from retail (A1) to non-retail use at ground floor level in the High Street of Odiham Village Centre will not be supported, unless one of two exceptions apply.
16. Having regard to the supporting text to this policy⁵, it is reasonable to conclude that this refers to the whole or majority of a ground floor shop unit. The change of use before me would involve the conversion of a small part of the ground floor into non-retail use, with the majority of the ground floor remaining in retail use. On this basis, I find that Policy 9 is not pertinent to the proposal.
17. Drawing the above together, I conclude that the proposal would not have a harmful effect on the employment use of the site. As such, it would not conflict with Policy ED2 of the HLP or Policy 9 of the NLP referred to above; and it would accord with the provisions within the Framework which seek to build a strong, competitive economy and ensure the vitality of town centres.

Odiham High Street as a 'Local Centre'

18. Odiham High Street is identified as a 'Local Centre' within the retail centres hierarchy of the HLP. Policy ED6 of the HLP is relevant. This states, in

⁵ The policy 'applies where planning permission is required to change the use of ground floor shop units within the High Street of Odiham Village Centre.'

summary, that a proposal for a change of use will be supported subject to it satisfying the following criteria, that it: a) is appropriate to the centre's location in the retail hierarchy; b) would maintain or enhance the centre's vitality or viability; c) would not compromise the active frontage and that satisfactory residential amenity can be achieved; d) has no unacceptable impact upon local amenity and the historic environment.

19. In respect of the criteria, the Council does not raise any concerns regarding part (a). The Council's dispute with the proposal relates to conflict with parts (b), (c) and (d), in that insufficient information has been provided to demonstrate that the loss of available 'active' retail space at ground floor level would not threaten the viability of the unit and in turn the vitality and viability of Odiham High Street, constituting an unacceptable impact on the historic environment.
20. The change of use would involve the conversion of space containing existing welfare facilities for staff to provide stair access to the first floor, a shower/toilet and space for cycle and refuse storage. As a consequence, an existing small office/workshop adjoining the main shop floor is proposed to be converted into a kitchen area and toilet for staff.
21. The Council does not clarify what it means by available 'active' retail space. If it relates to the floor area within the main/public area of the shop floor then this would not be reduced as a result of the proposal. Indeed, the removal of the existing sizeable staircase as part of the proposal would have the potential to increase this floor area. Even if the Council's submission relates to the total floor area of the ground floor unit, whilst this would be reduced as a result of the proposal, it would still retain a moderately sized unit, and the removal of the existing staircase would have the potential to provide a more practicable layout.
22. Consequently, I find that the proposal would not threaten the retail unit's viability or compromise its active frontage. As such, it would not undermine the vitality and viability of Odiham High Street. Nonetheless, for the reasons set out below relating to the listed building, I am unable to determine whether the proposal would have 'no unacceptable impact on the historic environment'.
23. Drawing the above together, whilst I conclude that the proposal would maintain the vitality and viability of Odiham High Street and thus comply with the provisions within the Framework which seek to ensure the vitality of town centres, I am unable to conclude whether it would have no unacceptable impact on the historic environment. As such, I cannot be certain that it would not have a harmful effect on Odiham High Street as a 'Local Centre' or that it would fully accord with Policy ED6 of the HLP referred to above. The Council's reason for refusal on this issue also refers to conflict with Policy 9 of the NP. However, for the reasons set out in the first main issue, I find that Policy 9 is not relevant to the proposal.

Living conditions of neighbours with regard to privacy

24. The appeal property lies in close proximity to the residential dwellings and associated curtilages of Nos 113, 113B and 113C High Street. An existing large window at first floor level in the west elevation of the appeal property faces the private amenity spaces of these properties.

25. The tightknit pattern of development within Odiham's historic centre results in some unavoidable overlooking between properties in the same or different uses. I acknowledge that the existing window and the ancillary use of the first floor to the retail use at ground floor, which is stated to have no hour restrictions at present, already provides opportunities for overlooking into the private amenity spaces of Nos 113, 113B and 113C High Street.
26. However, any existing overlooking is likely to be transient in nature and limited to standard trading hours and days, when it is more probable that neighbours would not be at home or would not be using these outdoor spaces. I recognise that the change of use would likely reduce the number of people accessing/using the first floor. Nonetheless, the residential occupation and use of the space would be more intensive, with occupants of 113A more likely to spend time and dwell in the main living/dining area adjacent to the window, coinciding with the times of the day or week outside of standard trading periods, such as evenings and Sundays, when neighbours would more likely be at home and use the outdoor spaces.
27. Taking all of the above into account, the change of use would give rise to an increased level of overlooking into the private amenity spaces of the adjacent properties, with a consequent reduction in the level of privacy currently experienced by occupants when using these spaces. These effects would materially harm the living conditions of the residents of these adjacent dwellings and diminish the use and enjoyment of the properties as their homes.
28. I conclude that the proposal would have a harmful effect on the living conditions of neighbours, with regard to privacy. This would conflict with Policy NBE9 of the HLP and Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 (2020) which, together and amongst other things, seek to achieve high quality design and cause no material loss of amenity to adjoining residential uses, including through loss of privacy. It would also conflict with the provisions within the Framework which seek to achieve well-designed and beautiful places.

Listed building and conservation area

Special interest and significance

29. The appeal site forms part of the Grade II listed building, 113 High Street⁶. It dates from circa 1600 and the early 19th century. It comprises a late medieval timber-framed hall with a later front of two storeys.
30. From the evidence before me, the special interest and significance of the listed building is largely derived from its archaeological, architectural and historic interests in illustrating a timber framed property which has evolved over time. Important contributors in these respects which are pertinent to the appeals, are its use of traditional methods of construction and materials; surviving historic fabric and features; pleasing architectural form; and its group value with adjacent listed buildings, contributing to the composition of the historic villagescape of Odiham.
31. The building occupies a prominent position on High Street within the Odiham Conservation Area (the OCA). The OCA takes in the historic core of the village, which incorporates a mix of commercial and residential uses, and verdant open

⁶ National Heritage List for England, List Entry Number: 1272485.

landscape to the north. From the evidence before me, the character and appearance of the OCA mainly stem from the preservation of Odiham's linear pattern of development along and radiating out from High Street, combined with the variety and architectural richness of its historic buildings which denote its evolution, all set within a pastoral landscape. The heritage merit of 113 High Street causes it to add considerably to Odiham's historic and aesthetic charm. In doing so it positively contributes to the character and appearance of the OCA as a whole and thereby to its significance as a designated heritage asset.

Proposal and effects

32. The proposal at ground floor level includes the removal of the existing staircase; blocking up of an internal opening; relocation of the ground floor staff toilet and kitchen; installation of a new staircase; installation of shower/toilet and partitions to create a storage area for refuse/cycles; and the creation of a new door opening. At first floor level it includes the opening up of a 'historic' opening; installation of partitions; and installation of a kitchen and bathroom.
33. It is imperative that any proposal is accompanied by drawings and specifications of sufficient detail to illustrate and/or describe the proposed interventions and alterations in order to avoid any uncertainty over what is proposed, and to allow a robust assessment of any consequent effects. In assessing the proposal, I find the drawings and specification submitted with the applications, upon which the appeals are determined and which would form part of any formal decisions if I were minded to allow, to be wholly deficient in these respects.
34. The lack of information such as, internal elevations and large scale details to illustrate the relationship of any alterations or interventions with historic fabric, particularly the timber frame; combined with the ambiguity in the schedule of works, for example in relation to the plastered finish of the first floor ceiling and walls, mean that I am unable to undertake a valid and meaningful appraisal of the proposal in relation to the identified special interest and significance of the building.
35. This is highly undesirable in general terms, but especially so in this instance, given that the property is a Grade II listed building of national importance. Consequently, I cannot be certain that the proposal would preserve the listed building's special interest and not harm its significance. Indeed, from the limited information provided and my observations on site, I have concerns about the effects of the proposed interventions at ground floor level in relation to the exposed timber frame; and the proposed changes at first floor level regarding the insertion of partitions and utilities associated with the new kitchen and bathroom. The latter of which, I note the Council's conservation officer referred to in their consultation comments⁷.
36. In coming to my conclusions on this issue, I have considered whether conditions controlling the detail of the proposal could adequately mitigate these issues and concerns were the appeals to be allowed. However, the majority of the omitted information goes to the heart of understanding the proposed changes and any effects that they may have on the special interest and

⁷ Email dated 14 March 2023 requiring evidence/confirmation as to the nature and provenance of the ground floor ceiling or first floor joists before deciding how appropriate the work of running pipework through them would be.

significance of the asset. It would not be appropriate nor acceptable to leave such fundamental matters to conditions, as I cannot be sure that they would be effective and capable of implementation.

37. In relation to the OCA, the proposal would sustain the employment use and viability of the unit at ground floor level and in turn maintain the vitality and viability of Odiham High Street. This, combined with the mostly internal nature of the changes proposed, would mean that the character and appearance of the OCA as a whole would be preserved. As such, its significance as a designated heritage asset would not be harmed.

Conclusion on listed building and conservation area

38. In discharging the relevant weighty statutory duties in the Act and giving great weight to the listed building's conservation, I conclude that it has not been satisfactorily demonstrated that the proposal would preserve the Grade II listed building, 113 High Street, or any features of special architectural or historic interest which it possesses. Thus, I cannot be certain that the proposal would meet the statutory presumptions set out in sections 16(2) and 66(1) of the Act. Nor can I be sure that it would not harm the significance of this designated heritage asset and thus comply with the provisions within the Framework which seek to conserve and enhance the historic environment. Nor can I be certain that it would accord with Policy ED6 of the HLP referred to above, or Policies NBE8 and NBE9 of the HLP which, amongst other things seek development proposals to conserve or enhance heritage assets.
39. I am aware that the Council did not refuse the applications on the basis that the proposal would not preserve the listed building's special interest and would harm its significance. However, as decision maker, I have reached my own conclusion on the evidence before me. As such, this matter does not detract from my findings in this regard, which are a result of a lack of information and uncertainty over what is proposed and any consequent effects.
40. With regard to the OCA, the proposal would comply with the statutory presumption set out in section 72(1) of the Act; accord with the provisions within the Framework relating to the conservation and enhancement of the historic environment and; comply with Policies ED6, NBE8 and NBE9 of the HLP referred to above.

Other Matters

41. The submitted evidence references the presence of other listed buildings within the vicinity of the site and I note the 'group value' of 113A High Street. Apart from their locations, no information has been provided in relation to the adjacent listed buildings, but mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving their settings. It is reasonable to conclude that the special interest and significance of these assets largely stem from their historic and architectural interests, but are also derived, in part, from their villagescape settings. Given the extent and largely internal nature of the proposal, I find that the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed. I note the Council raised no concerns in this regard either.

Overall Planning Balance

42. The proposal would result in an additional dwelling which would contribute to the local housing supply. Economic and social benefits would also accrue from the property's conversion and occupation. These benefits are tempered by the single unit proposed but, nevertheless, carry moderate weight in favour of the appeals.
43. I have concluded that the proposal would not have a harmful effect on the employment use of the site; and that it would preserve the character and appearance of the Odiham Conservation Area. However, the absence of harm in these regards weighs neutrally.
44. Conversely, I have found that the proposal would have a harmful effect on the living conditions of neighbours, with regard to privacy; that I cannot be certain that the proposal would not harm Odiham High Street as a 'Local Centre'; and that it has not been satisfactorily demonstrated that the proposal would preserve the Grade II listed building, 113 High Street, or any features of special architectural or historic interest which it possesses. These factors attract substantial weight against the appeals.
45. The Framework highlights the important role that residential development often plays in ensuring the vitality of centres. However, it is also clear in stating that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance; and that decisions should create places with a high standard of amenity for existing and future users.
46. Whilst there are considerations that weigh in favour of the proposal, in my judgement, they are not sufficient to outweigh the harm I have found. The proposal would therefore conflict with the development plan when taken as a whole and there are no other material considerations, including the Framework, that outweigh this conflict.

Conclusion

47. For the reasons given above, I conclude **Appeal A** and **Appeal B** should be dismissed.

F Cullen

INSPECTOR