



Appeal Decisions

Site visit made on 14 May 2024

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2024

Appeal A Ref: APP/H0520/W/23/3326805

Wykeham House, Market Hill, Huntingdon, PE29 3NR

- 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 Damon Bentwood against the decision of Huntingdonshire District Council.
 - The application Ref is 20/02502/FUL.
 - The development proposed is as change of use from B1 offices to sui generis 14-room House of Multiple Occupation (HMO).
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Appeal B Ref: APP/H0520/Y/23/3326804

Wykeham House, Market Hill, Huntingdon, PE29 3NR

- 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 Damon Bentwood against the decision of Huntingdonshire District Council.
 - The application Ref is 20/02503/LBC.
 - The works proposed is described as change of use from B1 offices to sui generis 14-room House of Multiple Occupation (HMO).
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Decisions

1. Appeal A: the appeal is dismissed.
2. Appeal B: the appeal is dismissed.

Preliminary Matters

3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
4. I have taken the descriptions of the proposed development and works from the appellant's appeal form, which reflects the proposal submitted to the Council and consulted upon prior to determination of the applications. It also matches the descriptions on the Council's Decision Notices. Therefore, I am satisfied that using these descriptions would not prejudice the interests of any party.
5. However, the appellant has indicated that there was a typographical error in the descriptions as the proposal is for a 13-bedroom HMO, not a 14-bedroom HMO. The descriptions of the proposed development and works should therefore be 'change of use from B1 offices to sui generis 13-room HMO.' I have therefore determined the appeals on this basis, since it more accurately describes the proposal. As this error is highlighted in the appellant's statement

- and the proposed floor plans submitted with the applications show there being 13 bedrooms, no parties would be prejudiced by my use of it.
6. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
 7. A revised National Planning Policy Framework (Framework) was published in December 2023 after the Council made its decisions. I have had regard to the revised Framework in reaching my decisions.
 8. The appellant has submitted additional plans showing alternative schemes. These are labelled as Options A, B and C and are contained in Appendix 6 of the appellant's statement. These alternative schemes relate to the second floor of the building and include alternative locations for entrance doors. The proposed changes shown on the additional plans would materially alter the nature of that which was originally applied for, consulted upon and determined by the Council for 20/02502/FUL and 20/02503/LBC. Indeed, the alternative schemes would be fundamentally different to the original applications.
 9. The Procedural Guide sets out that the appeal process should not be used to evolve a scheme¹. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Local Planning Authority and by interested parties at the application stage. In deciding whether to, exceptionally, accept the proposed amendment, as per the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney (2017)*, which refined the 'Wheatcroft principles' set out in *Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982)*, consideration must be given to the following two tests which must be assessed separately: 1) substantive test; and 2) procedural test.
 10. The substantive test is whether the proposed amendment involves a 'substantial difference' or a 'fundamental change' to the application that would ultimately result in a 'different application'. A 'substantial difference' or a 'fundamental change' could also be as a result of a series of small, incremental changes to a scheme. If it is concluded that the amendment would result in a 'different application', then it is unlikely that it could be considered as part of the appeal. The procedural test is whether, if accepted, the proposed amendment would cause unlawful procedural unfairness to anyone involved in the appeal and, if so, whether such fairness could be cured, for example by re-consultation.
 11. In my judgement, the revised plans showing alternative schemes would ultimately result in a 'different application'. As such, the suggested amendment does not pass the substantive test and I do not accept it. It is also important that what I consider is essentially what was considered by the local planning authority and on what interested parties' views were sought. Whilst some comments by the Council's Conservation Officer on the alternative schemes have been provided, I am not persuaded that all those who should have been consulted on the proposed revisions to the original scheme have been given the opportunity to review and respond to these changes adequately. If I were to determine the appeal based on the revised plans, it is possible that the interests of parties who might wish to comment would be prejudiced. As such, the suggested amendment does not pass the procedural test. Consequently, for

¹ Section 16, Paragraph 16.1

the avoidance of doubt, I have determined the appeals on the basis of the proposal and plans which were before the Council when it made its decisions.

Main Issues

12. A main issue in Appeal A and the main issue in Appeal B is:

- whether the proposal would preserve the Grade II listed building known as 'Wykeham House' or any features of special architectural or historic interest which it possesses.

13. Additional main issues in Appeal A are:

- whether living conditions of future occupants would be acceptable, with regard to internal living space;
- the effect of the proposal on the living conditions of future residents, with regard to shared outdoor amenity space;
- whether the proposal would provide adequate provision for refuse bins to serve the proposed development; and
- whether the proposal would provide adequate cycle storage for future occupants.

Reasons

Special interest and significance

14. The appeal site comprises Wykeham House, a Grade II listed building located on Market Hill in Huntingdon town centre. The property was listed on 10 January 1951 (List Entry Number: 1128589). The building was previously used for commercial use as B1 offices. This use ceased in 2016 and the building has remained empty since. Planning permission was previously granted in 2020 to change the use of the building to a dwellinghouse (Use Class C3) under application reference 19/02586/FUL.
15. Wykeham House was built of red brick in the early 18th Century and re-fronted in gault brick with rendered quoins in the early 19th Century. It is a 2-storey building with a plain tiled roof. It has 3 flat-topped dormer windows and 5 large sash windows with glazing bars to its front elevation, and a large square plain porch to its front entrance. The evidence before me suggests it was first built as a large town house. In 1842, it became the London & County Joint Stock Bank and later in the 19th Century, it became the Huntingdonshire County Club. During the 20th Century it held County Council Offices and the Registry Office.
16. In parts of the building on the ground and first floor it was evident during my site visit that little thought had been given to the building's historic features and layout when it was subdivided and converted into offices and facilities associated with the former Council office use. However, many of these changes are reversible, such as the subdivisions of the large principal rooms. The building still retains certain internal features of note including the historic floor tiles, staircase and banister within the main entrance hallway, with the stairs running up the centre of the building; and a set of stair balusters to the upper part of the stairs from first to attic floors.

17. Internally the building retains some good examples of early 18th Century fireplaces, timber panelling and joinery, window shutters, plank or panelled doors and fittings. The rooms to the ground and first floor tend to have high ceilings with some being panelled rooms with cornice features and fireplaces with decorative carving, giving them a sense of grandeur.
18. The layout of the attic rooms appeared generally unchanged, and it was possible to appreciate many remaining historic features such as the historic windows and doors, cast-iron stove, cupboards and water closet. Indeed, the attic rooms remain the least altered part of the building. Taken as a whole, the attic rooms have special interest both in terms of historic fabric and through illustrating the social history and evolution of the building.
19. I find that the special interest and significance of this heritage asset largely derives from its historic and architectural interests. These are drawn from its symmetrical design and its illustration of a former high status town house located within the core of the historic settlement, as well as the historic fabric and features that survive from the physical origins of the original building, connecting the past character and interest of the building to the present.

Appeals proposal and effects

20. The proposed internal works include removing and installing partition walls, blocking up and installing doorways, installing kitchens and bathroom fixtures/appliances, new flooring and replacement doors and windows.
21. The appellant's submitted Fire Safety Strategy states that "the building will have suitable materials including linings, unprotected areas and external wall construction standard required" and "fire blankets, fire extinguishers, fire doors, smoke alarms and smoke detectors will be fitted in all relevant rooms." However, insufficient detail has been submitted as to what the physical impact of these would have to the fabric and appearance of the building. The Framework (paragraph 206) asserts that the significance of a designated heritage asset can be harmed or lost through alteration and any harm requires clear and convincing justification.
22. While a schedule of works has been submitted, far from sufficient detail has been provided. As such, it is unclear which doors would need to be upgraded or replaced with fire doors, several of which have historic interest. There is also insufficient detail of the proposed alarm system or locations of safety equipment such as fire extinguishers. Even though it has been in use as offices previously, the change of use of the building to an HMO of 13 units would be a much more intensive use of the property. Insufficient detail has been submitted to enable a meaningful assessment of the full effects of the proposal and thus any consequent harm. As such, I cannot be certain that the proposal would not result in the loss or damage of historic fabric, which would fail to satisfy paragraph 206 of the Framework.
23. The proposal would result in an increase in visual impact of signage, fire safety equipment and loss of historic fabric, including historic doors, which would reduce the historic interest and quality of the building internally. I acknowledge that the listing description does not make specific reference to doors. Nonetheless, listings are primarily for identification purposes and do not provide an exhaustive or complete description of the building's special interest.

24. From my site observations and from the evidence before me, it is apparent that the attic rooms would need a considerable amount of work to bring them to habitable standards. The attic has no modern electrical or other services, and the historic panel and plank doors remain in place. The attic is constrained by headroom due to the low ceiling heights and the existing doors would not meet current fire-suppression standards.
25. The proposal would subdivide the attic but the submitted plans seem to show the proposed location of doorways and corridors in areas where the roof pitch would be low, making these spaces unusable as there would not be enough headroom space. Moreover, it would be difficult to upgrade the doors without substantial loss of special interest. It is also not clear if historic features such as the cast-iron attic stove would remain. From the limited information before me, these works would not only result in the loss of considerable historic fabric, but also compromise the plan form and layout of the attic which, as noted above, forms an important part of the building's significance.
26. I also have concerns regarding the lack of detail on the layout of the proposed bathroom and kitchen/communal rooms, and the routing of new heating, plumbing and electrics within the building, particularly as limited information is before me to justify what would more likely than not lead to a further loss of historic fabric. In the absence of substantive evidence to the contrary, I find that these internal works would erode the special interest of the listed building and have a harmful effect on its understanding and appreciation. It would not be appropriate to leave such matters to conditions.
27. Given the above, the proposal would not preserve the listed building or any features of special architectural or historic interest which it possesses. In doing so it would harm the significance of this designated heritage asset.

Public benefits, balance and conclusion on the first main issue

28. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and fairly localised nature of the proposal, I find that the harm to the significance of the designated heritage asset assessed above would be 'less than substantial' but nevertheless of considerable importance and weight. Paragraph 208 of the Framework requires this harm to be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.
29. The appellant points to the benefit of the conversion of the building into 13 HMO bedrooms, suggesting that the conversion of the building into a large HMO would be the optimum viable use. The Council argue that the optimum viable use of the building would be as a single dwellinghouse. However, the appellant states that they marketed the property as a single dwellinghouse from the end of February 2020 until June 2021 with no offers being made. They also state that it has previously been difficult to let the building as offices. I have not been made aware of examples of any other possible or probable alternative uses that might be viable.
30. Having regard to the above, whilst I acknowledge that sustaining and enhancing the significance of this designated heritage asset is the preferred outcome, the evidence before me suggests that, on balance, this would not be achieved in this particular case. Due to the harm identified above, the proposal

would not result in a viable use of the building that is consistent with the conservation of the special architectural and historic interest of the building.

31. Furthermore, although the proposed HMO would make use of the building, it has not been satisfactorily demonstrated that this would be the least harmful use. The proposal would compromise the building's conservation to an unacceptable degree and would not conserve it in a manner appropriate to its significance.
32. I have considered the various benefits put forward by the appellant that the proposal would bring, including providing additional residential accommodation that contributes to the local housing needs of the area, contributing to the local economy during the construction phase and through increased spending by new residents on local services and facilities, and the benefit of bringing an empty building back into use in a highly accessible location. These public benefits are in line with the objectives of the Framework and carry moderate weight in favour of the appeal.
33. However, on balance, the moderate weight that I ascribe to the public benefits which would accrue from the proposal is not sufficient to outweigh the considerable importance and weight that I attach to the harm to the significance of the designated heritage asset.
34. Consequently, I conclude that the proposal would not preserve the Grade II listed building known as 'Wykeham House' or any features of special architectural or historic interest which it possesses. It would therefore fail to satisfy the requirements of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also conflict with Policy LP34 of Huntingdonshire's Local Plan to 2036 (adopted 2019) (Local Plan), and Policy BE3 of the Huntingdon Neighbourhood Plan 2018-2026 (2019). Collectively, these policies, amongst other things, seek to ensure that heritage assets and their settings are conserved and enhanced, and proposals avoid harm to the asset's significance.

Living conditions of future residents – internal floor space

35. The proposal would exceed the minimum floor areas for single bedrooms on its ground and first floors, as outlined in the 'Technical housing standards – nationally described space standards (2015)' (NDSS). I also find that the proposal would make provision for a reasonably sized kitchen/common room on the ground floor, and a shared kitchen area on the first floor. The Council has not formally adopted the national standards, but it accepts that they provide a useful guideline. Consequently, I find that adequate internal space would be provided for the ground and first floors, ensuring a satisfactory standard of amenity for future occupants.
36. However, no section drawings have been provided to demonstrate whether there is sufficient height/headroom and usable floor space in the proposed bedrooms on the second floor (attic), which is restricted by low ceiling heights and sloping ceilings. The NDSS states that "any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage." Although the submitted 'existing second floor plan' contained in Appendix 8 of the appellant's statement shows shaded areas, there is no key provided on this plan to denote what the shaded areas represent. As such, insufficient detail has been submitted to demonstrate whether the proposed

second floor bedrooms would provide a reasonable level of internal space or adequate built-in storage to ensure a high standard of living conditions for future occupants.

37. Furthermore, due to the sloping nature of the roof pitch, the internal usable areas of the proposal's second floor spaces would be very narrow. This would give rise to an unacceptably restrictive feel to rooms, particularly the bedrooms. In quality terms therefore, and as a result of the limited usable floor area, the interior of the proposed second floor rooms would be poor.
38. With the above in mind, the proposed development would fail to provide acceptable living conditions for future occupiers with respect to internal floor space for the second floor. As such, the proposal would conflict with Policy LP14 of the Local Plan, which amongst other things, seeks to ensure development provides a high standard of amenity for future occupiers. It would also fail to accord with the Framework (paragraph 135), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Living Conditions - Outdoor Amenity Space

39. Although the proposal would include an area of outdoor amenity space at the rear of the building, it would be too small to accommodate a range of garden activities, including seating, clothes drying, or sufficient usable space for children to play. Additionally, it would lack privacy due to exposure to views from the parking area. The parking areas and proposed bin storage area would restrict the space and adversely impact its practical usability.
40. The appellant suggests that an HMO does not require outdoor amenity space. Nevertheless, Policy LP14 of the Local Plan is clear that development should provide a high standard of amenity for all users and occupiers of the proposed development.
41. Due to its proximity to the proposed bin storage and parking areas, the proposal would result in a small outdoor amenity space that is awkwardly spaced and restricted in shape. This would prove neither usable nor practical for future occupiers and would produce a poor standard of outdoor amenity space.
42. The appellant has indicated that if the appeal building was utilised as a single dwelling, the matter of the size of the outdoor amenity space would remain. However, such a use would have a materially different nature to a large HMO property.
43. My attention has been drawn to a previous approval for a 5-bedroom HMO at All Saints Passage. Although this is an exception, the overriding requirement of Policy LP14 is a high standard of amenity to meet the reasonable needs of its users. Moreover, the full details of this other case are not before me. I have considered this appeal on the basis of the evidence before me and the development plan context as it currently exists.
44. I acknowledge that there are open green spaces within a reasonable walking and cycling distance of the appeal site. However, as the open green spaces are public spaces they would be shared with non-residents and are therefore not a private space.

45. For the reasons given, the proposal would not provide adequate living conditions for the future occupants of the proposed development having regard to outdoor amenity space. As such, the proposal would fail to accord with Policy LP14 of the Local Plan. This policy, amongst other things, seeks to ensure development provides a high standard of amenity. The proposal would also fail to accord with the Framework (paragraph 135), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Refuse bin storage

46. The appellant submitted a signed Unilateral Undertaking (UU), dated 20 January 2021, for the provision of wheeled bins. However, the Council has advised that the property would require a communal bin collection due to the number of rooms. The cost per communal bin is £669. The submitted UU shows a wheeled bin contribution for a sum of £150. As such, this would not meet the requirements within part H of the Council's Developer Contributions Supplementary Planning Document (2011) (SPD), which sets out the cost of communal bins.
47. Whilst the submitted plan shown in Appendix 5 of the appellant's statement shows space for the storage of refuse bins, refuse collection access to the bins would not be gained directly from the highway as a result of the appeal building's distance from the kerbside. Instead, the bins would need to be manoeuvred across the proposed car parking spaces on collection days and it is not clear where the bins would safely be placed for refuse collection purposes. When the parking spaces are in use, it is likely that access to the bins would be impeded by the parked cars.
48. This appears to be an awkward and inefficient arrangement and could result in the refuse bins being stored to the rear of neighbouring properties or close to George Street for collection purposes, which would be visually unappealing. Consequently, the proposal would represent poor design for refuse storage and collection.
49. Given the above and the absence of detail, if I were to allow the appeal, I cannot be certain that a suitable bin storage arrangement could in practice be implemented, even if I were to attach a condition requiring details to be approved by the Council.
50. I appreciate that if the building were to be used as a single dwellinghouse it would also require refuse storage facilities. However, the bin storage requirements for a single dwellinghouse would be different to the bin storage requirements for an HMO, such as is the case for this appeal scheme.
51. For the reasons given, the proposal would not provide adequate provision for refuse storage. It would therefore fail to accord with Policy LP4 of the Local Plan and the Council's SPD, which amongst other things, seeks to ensure developments include suitably designed refuse collection areas. It would also fail to accord with the Framework (paragraph 135), where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Cycle Storage

52. Concerns have been raised regarding the adequacy of information provided regarding cycle storage in relation to the proposed development. However, there is currently no definitive evidence indicating that it would be unfeasible to sufficiently accommodate cycle storage within the proposed development. Neither Policy LP17 of the Local Plan or Policy TT1 of the Huntingdon Neighbourhood Plan 2018-2026 (2019) explicitly prohibit the conditioning of final details pertaining to these matters in the event that planning permission is granted. Consequently, the proposed development would not be in direct conflict with these policies in regard to this matter.

Other Matters

53. The site is situated within the Huntingdon Conservation Area (CA). Mindful of the statutory duty under section 72(1) of the Act, I have paid special attention to the desirability of preserving or enhancing its character or appearance. Wykeham House sits prominently to the west of Market Hill. Market Hill is a well-defined enclosed urban space dominated by its two principal buildings, the Town Hall and All Saints parish church, the stonework of the latter contrasting strongly with the mellow red brick of the former. The High Street is aligned to the east and forms one side of the space, with properties which have been converted mainly into shops. To the west are a group of former town houses with various dates from the sixteenth century onwards; one of these includes the Falcon Inn (Grade II listed). Building materials include local gault brick, red brick or painted render.
54. Given the above, the character and appearance and thus special interest and significance of the CA, insofar as it relates to these appeals, are primarily the wide public square and the strong building lines which are formed around it, which creates coherence and shapes the experience of the town centre. It is also the way the buildings of varying ages and styles reflect the evolution of the town.
55. By virtue of its historic and architectural integrity and authenticity, Wykeham House adds considerably to Huntingdon's heritage merit. In doing so it positively contributes to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.
56. Whilst the appeal site is likely to be used more intensively than a single dwellinghouse or converted flats, having regard to the layout of the appeal scheme and the proposed parking and building entrance arrangements, I find that any noise and activity impacts associated with the additional comings and goings of residents and their visitors and deliveries in connection with the appeal scheme, are unlikely to materially impact on the character of the area. This is because the locality already experiences a certain amount of background noise due to its location within a built-up town centre area with established pedestrian and vehicular activity. Therefore, due to the internal nature of the proposed works, it would preserve the character and appearance of the CA as a whole and would not harm its significance as a designated heritage asset. I note the Council raised no concerns in this respect either.
57. The site sits within a cluster of listed buildings, including the Grade I All Saints Church, the Grade II listed 'Falcon Inn' public house, and the Grade II* Town Hall. From the limited information before me and my observations on site the

special interest and significance of these assets primarily stem from, singularly or in combination, their archaeological, historic and/or architectural interests. However, they are also derived, to a greater or lesser extent, from their respective townscape settings.

58. Given the location and extent of the proposal, the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed. This would meet the requirements of section 66(1) of the Act; the provisions of the Framework regarding the conservation and enhancement of the historic environment; and Policy LP34 of the Local Plan and Policy BE3 of the Huntingdon Neighbourhood Plan (2019) referred to above. I note the Council raised no concerns in this respect either.
59. The appellant states that they would need to apply for an HMO licence, if planning permission were granted, at which point the Council would be able to specify exactly what would be needed to achieve the HMO licence. However, this is a different regulation and is therefore not relevant to these appeals.
60. My attention has been drawn to other HMO approvals in Huntingdon town centre and a previously approved development at Walden House. However, I have not been presented with the full details of these other cases. Therefore, the full details of the circumstances which led to these developments being accepted are not before me. I also note that the listed building consent for Walden House was granted in 2006 and therefore was assessed against a different national and local planning policy context. In any event, I have determined this appeal on its own merits based on the evidence before me and my observations on site.

Conclusion

61. Appeal A: The proposed development would conflict with the development plan when taken as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
62. Appeal B: For the reasons given, I conclude that Appeal B should be dismissed.

H Smith

INSPECTOR