



Appeal Decision

Site visit made on 23 July 2024

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2024

Appeal Ref: APP/K0235/W/23/3329269

Former Howard Congregational Chapel, 29 Mill Street, Bedford MK40 3EU

- 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 Empire Bedford Limited against the decision of Bedford Borough Council.
 - The application Ref is 20/02663/MAF.
 - The development proposed is Part extension to building above modern central section to add second floor and change of use from and subdivision of nightclub (sui generis) to provide 23 new apartments (C3) with associated alterations to fenestration including insertion of windows, doors and rooflights.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The officer's report notes that the site lies within the Bedford Conservation Area and the appeal site is a listed building. The report states that the consideration of designated heritage assets was addressed in a related application for listed building consent. However, that is not before me.
3. Section 72(1) of the Planning (Listed Building and Conservations Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Section 66(1) of the Act requires the decision maker for planning permission to have special regard to the desirability of preserving a listed building or its setting. As such, I am required to consider designated heritage assets with regard to this application for planning permission. The parties were invited to submit further comments in this regard.
4. The appellant has proposed at appeal that accessibility could be resolved through condition in the event that the appeal is allowed. The Council has withdrawn its objection in this regard, and I see no reason to disagree. This is not considered further.
5. The Council has also withdrawn its concern in relation to contributions to the provision of green and amenity space. As this was not supported by the local development plan, I see no reason to consider this further.

Main Issues

6. The main issues are:

- Whether the development would preserve the Grade II listed Howard Congregational Church, and whether the development would preserve or enhance the character or appearance of the Bedford Conservation Area;
- The effects of the development on the living conditions of future occupiers with regard to outlook and noise;
- Whether the development would accord with local policies with regard to air quality;
- Whether the development would accord with local policies with regard to climate change; and,
- Whether the development would accord with local policies with regard to affordable housing.

Reasons

Listed Building and Conservation Area

Howard Congregational Church

7. The appeal building is the Grade II listed Howard Congregational Church (chapel), which is a distinctive presence along a mixed road frontage of attractive small period shops and offices, and larger and more modern developments of minimalist design and with little architectural merit.
8. The chapel was completed around 1774, and was active as a methodist church until 1971. Although severely damaged in a fire in 1985, the chapel has retained its original principal elevation. This is a two-storey entry arcade, built in the mid-19th century and which presents with a stuccoed classical façade with two columns framing a central entrance with three arched windows above. Two projecting side bays with quoins contain an arched window on the ground floor and a taller and pedimented arched window on the first floor. The façade also displays a string course above ground floor level, and dentilled eaves below the parapet.
9. Each side of the principal façade's projection is constructed in red brick, and has an arched window on each floor with an identical blind recess alongside. Behind this projection there is a clear separation to the newer construction with brick side projections and rendered quoins facing the street, and then a rendered finish to the two long flank walls. To the front, the chapel is set back from the footway and gravestones lean against one of the neighbouring buildings.
10. The chapel extends to Ram Yard at the rear, where there is an attached 19th century red brick former school building with slate pitched roofs, arched windows, gables fronting the road and lines of decorative brickwork highlighting the eaves line and the window heads. Although the appearance of the former school's frontage is somewhat dilapidated, it is nonetheless a distinctive presence in the street scene.
11. The front entry arcade and the former school are separated from each other by the long and largely blank flank walls which face neighbouring buildings. However, notwithstanding that these side walls lack detail or interest, they provide a neutral foil for the chapel's front and rear elevations which are

themselves attractive features in the street scenes of both Mill Street and Ram Yard.

12. The chapel's ornamented façade is reflective of the religious architecture of the time and its position within the town reflects the chapel's status within the community. The aesthetics and typology of the former school are typical of Victorian school design and its previous function and positioning close to the chapel building reflects the methodists' underlying philanthropy and focus on education. The chapel's significance is therefore derived from its remaining and retained historic fabric, the architectural references to former function and the aesthetic qualities of the front and rear elevations which make positive contributions to the respective street scenes.

Proposals and effects

13. The development would result in the chapel's conversion from a nightclub into flatted accommodation with an upward extension on the roof. This would require the insertion of windows along the two flank walls which are currently punctuated only by one small window on one side and fire doors at ground level on both sides.
14. Each of the flank walls would be lined with large arched windows on the ground and first floors. They would have irregular spacing, would not always be aligned vertically and their sill levels would be inconsistent with the entry arcade's windows. There would be smaller arched windows between the larger windows. The number and size of the windows would vie for attention with the entry arcade. Their random arrangement, and some cases very close spacing, would contrast and compete with the understated symmetry and rhythm of the chapel's front façade. The lack of repetition and rhythm, and the inconsistency in size and distribution of the proposed windows compared to the original fabric would be discordant and intrusive. The flank walls would erode the visual impact of the entry arcade, which is currently the building's focus.
15. Moreover, sections of the rendered flank walls would be replaced with brick facing. The surrounds to the arched windows in the brick section would be rendered and the surrounds to the arched windows in the rendered sections, would be brick. This unnecessary ornamentation, also unrelated to the existing historic fabric, would be discordant and would compete visually with the front façade, reducing its overall impact.
16. As such the windows would neither be subservient to the front façade nor reflect its underlying geometry and design ethos. Moreover, on the front façade there is currently a subtle hierarchy with the ground floor windows being smaller and clearly subservient. The proposed large windows would be of equal size on each floor. This would also undermine the existing window hierarchy.
17. The planning statement notes that the new windows should take account of the existing symmetry and design of the retained historic fabric. However, the window arrangement appears to have been informed by internal layout rather than the aim of maintaining a design relationship with the existing classical façade.
18. Moreover, given that the proposed windows would face the adjacent buildings at a distance of a few metres, this would reinforce the incongruity of the size, shape and number of window openings on the flank walls. I acknowledge that

the window arrangement of the flank walls would be partially obscured by those neighbouring buildings, but it cannot be presumed that this would be the case in the longer term. In any case, visibility from the public realm is not necessarily determinative.

19. Notwithstanding that the flank walls are not original they nonetheless contribute to the appreciation of the principal façade, if only insofar as they do not compete by presenting with an alternative and contrasting design.
20. With regard to the upward projection, this would be sufficiently set back from the parapet and the eaves to enable it to appear as subservient and a clearly separate addition. Although it would appear incongruous, I conclude that it would not significantly diminish the chapel's significance.
21. There would be improvement works to the frontage which would benefit the street scene. However, these could be carried out independently of the development. The benefits arising from these works would be minor and would not outweigh the harm in relation to the arrangement and size of the proposed windows on the flank walls, which would diminish the chapel's significance.

Bedford Conservation Area (CA)

22. The town centre has a mixed development of historic housing, shops and public houses of varying age and typology. Although there is a fairly continuous and consistent road frontage on Mill Street, there is a diversity of height, styles and materials present. The chapel is noted in the CA appraisal as being a fine building. I see no reason to disagree.
23. The significance of the CA is derived from its irregular building pattern and the quality of retained period buildings, which contribute to the street scene and reflect the town's organic growth. These buildings collectively provide a sympathetic setting to appreciation of the chapel from Mill Street.
24. I have set out above my concerns above in relation to the development's impact on the chapel. The proposed treatment of the flank walls would reduce the chapel's contribution to the CA and as such the development would fail to preserve the listed building or its setting, and would fail to preserve or enhance the character or appearance of the CA. This would be contrary to Sections 66(1) and 72(1) of the Act.
25. I have addressed the heritage balance as set out in the National Planning Policy Framework (the Framework) later in my reasoning.

Living conditions

Outlook

26. The chapel, now converted into a nightclub, sits between other buildings forming the Mill Street frontage. To the west there is a long three storey building which extends alongside the chapel to around two thirds of the chapel's length. Lateral separation is shown on the plans as varying from just over 2 metres to about 3.5 metres. This accords with my observations at the visit. The top of the neighbouring building appeared to be as high, if not slightly higher, than the chapel's flank wall. As such, the accommodation's windows facing the neighbouring building on the ground and first floors would look

- directly onto a blank façade just a few metres away. This would affect Flats 5, 6, 7 on the ground floor and Flats 14 and 15 on the first floor.
27. To the east there is a long two storey building with a pitch roof which runs along most of the chapel's length. There does not appear to be anything before me which shows the relative height of neighbouring buildings in relation to the chapel, but I estimate the eaves of this building to extend above the string course level. The distance between the chapel and this building varies from around 1 metre to 2 – 3 metres.
28. Accommodation on the ground floor facing east would look onto a blank wall at a distance of less than 3 metres and in some instances little more than one metre. This would affect Flats 1, 8 and 9 and the living area only of Flat 2. The windows on the first floor would have an outlook that would primarily comprise the pitched roof of the neighbouring building and a large brick stack. Although the outlook would be more open than that of the ground floor flats, the outlook would be contained and have a degree of enclosure. Flats 10, 11, 17 and 18 would be affected on the first floor.
29. To look directly onto other buildings at these short distances from the ground floor of the east elevation, and the ground and first floors of the west elevation would be oppressive, and would have an adverse effect on the living conditions of those occupiers.
30. The appeal statement advances the argument that the outlook would be similar to that of lightwells common in Georgian or Victorian dwellings, now often converted into self-contained basement flats. I do not disagree that some converted basement flats have very limited outlook. However, those basement areas are generally close to ground level at the rear, or have greater openness at the rear. These are largely single aspect flats. Moreover, in the cases of basement conversions, ground levels are generally half or one floor above the accommodation's floor level. In this case, the ground floor flats would have outlook straight onto a flank wall that was two storeys high. In any case, the conversion of what was usually functional accommodation used by a historic servant class, is not necessarily justification for shortcomings in proposed current development.
31. The appellant agrees to some extent that there would be poor outlook and that this would be reflected in rent levels. However, this does not justify what would be unsatisfactory living conditions.
32. In addition, Flat 12 would be lit by skylight only and again would have very limited outlook. The plans show a window in the west facing wall of the living area but this is not shown on the elevations. Even if the two proposed rooflights in the living area have sills low enough to allow views out, there would be rooflights only, and at higher levels, in the bedrooms. This would also be oppressive. I conclude that Flat 12 would also have poor outlook.
33. The appellant advances the argument that the units with poor outlook would amount to amount a small proportion of the development. However out of the 25 units proposed, around half would have poor or compromised outlook sufficient to have an adverse effect on living conditions.

Noise

34. The appeal statement notes that the appellant and the Council are agreed that ambient noise levels would require the use of mechanical ventilation.
35. The Council has taken the view that all windows would need to be permanently closed which would be detrimental to living conditions. Occupiers would not have opportunities to select whether windows were opened for natural ventilation or not, which would have a harmful impact on residential amenity. A concern is also raised that complaints might be sustained for noise generating businesses nearby.
36. However, I noticed at my visit that there were open windows in what appeared to be relatively new flatted accommodation fronting Ram Yard, opposite the rear of the site. This suggests that ambient noise is not always a concern for those occupiers. Moreover, although there is a working garage nearby which would generate noise, neither Ram Yard nor Mill Street appeared to have high traffic volumes.
37. The Council has highlighted a recent appeal decision¹ for proposed development at the nearby Figaro House to support its reasoning that it would be necessary to keep windows closed at all times to maintain an acceptable acoustic environment. However, Figaro House is closer to at least one of the nearby public houses identified by the Council and the proximity of the neighbouring buildings to windows at the converted chapel would provide something of an acoustic buffer. The situations are not entirely comparable.
38. Consequently, whilst I acknowledge that this could be a noisy town centre environment, I am unable to conclude that the noise environment is sufficiently harmful to require all windows to be permanently shut. Consequently, the harm to living conditions arising from occupiers being unable to choose to open windows would not arise.
39. Although I find the harm in relation to noise less than compelling, this does not alter my reasoning with regard to the very severely limited outlook for a significant proportion of the proposed units. This would have an adverse effect on the living conditions of future occupiers.
40. As such the development would be contrary to paragraph 135 of the Framework which sets out to create a high standard of amenity for existing and future users, and LP Policy 30 which is concerned with good design and a development's relationship with its context.
41. There would be no conflict with LP Policy 47S which is concerned with noise pollution, LP Policy 32 which sets out to minimise the effects of disturbance or LP Policy 2S which is concerned with healthy lifestyles.

Air quality

42. The site is located within an Air Quality Management Area. LP Policy 47S requires developers to submit sufficient information to enable development proposals to be properly assessed.
43. The appellant raises the concern that the Council's scientific officer was satisfied that this could be dealt with by condition. However, I cannot be sure

¹ APP/K0235/W/23/3308165 and APP/K0235/W/23/3315822

that a condition would mitigate issues that were identified in a future assessment or would not raise other concerns., As such, a condition is not a satisfactory way to deal with this issue.

44. Consequently, I am unable to conclude that future residents would not be exposed to poor air quality. There would therefore be conflict with LP Policy 47S, as set out above, in this regard. There would also be conflict with LP Policy 32 insofar as this is concerned with minimising the effects of pollution on development, and LP Policy 2S which is a strategic policy concerned with healthy communities.

Climate change

45. The Council considers that in order to provide an acceptable noise environment the windows would need to be kept closed most of the time, this would create a concern in relation to energy use. The Council's decision states that the development would fail to meet the requirements to address climate change by maximising natural ventilation, natural cooling and solar gain. However, I have concluded above that natural ventilation could be used for at least some of the time without causing harm to occupiers in relation to noise.
46. The Council has also raised a concern in relation to poor light levels within some flats and that this would also generate excessive energy consumption. Nonetheless, this development represents the conversion of an existing building and opportunities to use design, layout and orientation to integrate sustainable design will be necessarily limited. Moreover, there is nothing before me to indicate that technological solutions in relation to thermal insulation, energy efficiency and the use of renewable energy sources could not be incorporated in the event that the appeal was allowed. As such I do not find significant conflict with LP Policy 51S which requires energy efficiency and the use of renewable energy, or LP Policy 53 with regard to sustainable design.

Affordable housing

47. LP Policy 58S requires sites of more than 10 or more units to provide 30 per cent affordable housing. The Council agreed when the application was submitted that the scheme would not meet viability requirements. However, the parties have agreed that this could be subject to a review through a S106 agreement. Nonetheless, there is no such agreement before me and in any case, as I have found harm in relation to the main issues there is no need for me to consider this further.

Other matters

48. Although the Council has raised a concern in relation to light entry into some of the accommodation, it has not linked this to living conditions for future occupiers. Correspondence in the evidence suggests that the eastern elevation would get sun until the early afternoon and that the western elevation would get sun in the afternoon and early evening. Given the orientation of the chapel, the height and proximity of the neighbouring buildings, this seems highly unlikely. Moreover, although it was a bright day at my visit, the alley between the chapel and the building to its west was distinctly gloomy.
49. However, whilst it seems highly likely to me that light levels would be very restricted for many of these largely single aspect flats, for the reasons set out with regard to outlook, I have not given this any weight in my reasoning.

Planning and Heritage Balance

50. I have identified less than substantial harm in relation to the listed building and the CA. Paragraph 205 of the Framework states that great weight should be given to an asset's conservation. Paragraph 208 of the Framework states that where a development proposal will 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.
51. The development would provide a viable use for a listed building as well as a significant number of flatted units in a sustainable town centre location. This would be likely to safeguard the chapel's future and ensure the retention of its prominent position within the Mill Street and Ram Yard street scenes, as well as making a modest contribution to local housing supply. However, the proposed changes to the chapel's fenestration would be such that the visual focus and integrity of the chapel's retained historic fabric would be substantially undermined. I have concluded therefore that the aforementioned public benefits would be insufficient to outweigh the degree of harm identified in relation to the heritage assets.
52. Moreover, I have identified harm in relation to living conditions, air quality, and affordable housing. As such, I find that the public and other benefits arising from the development would not outweigh the harm identified in relation to heritage assets and the other harm so identified. I recognise that the Council came to a different conclusion with regard to the designated heritage assets, but I am able to consider the appeal as if it had been made to me in the first instance. Moreover, I have a statutory duty to pay particular attention to heritage assets that might be affected by the proposals.

Conclusion

53. The development would be contrary to the Act, the local development plan and the Framework and there are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

A Edgington

INSPECTOR