



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: 02 September 2024

Appeal A Ref: APP/N1730/W/23/3324049

108 High Street, Odiham, Hook RG29 1LP

- 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 Lamron Devts (Odiham) Ltd against the decision of Hart District Council.
 - The application Ref is 22/00938/FUL.
 - The development proposed is subdivision of the existing ground floor retail unit into two retail units, change of use of part of the ground floor to C3, subdivision of the existing first floor flat into two flats to provide a total of 2 x retail units and 3 x flats and alterations to two windows to ground floor side.
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Appeal B Ref: APP/N1730/Y/23/3324047

108 High Street, Odiham, Hook RG29 1LP

- 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 Lamron Devts (Odiham) Ltd against the decision of Hart District Council.
 - The application Ref is 22/00939/LBC.
 - The works proposed are subdivision of the existing ground floor retail unit into two retail units, change of use of part of the ground floor to C3, subdivision of the existing first floor flat into two flats to provide a total of 2 x retail units and 3 x flats and alterations to two windows to ground floor side.
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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. The description of the proposed development/works set out in the application form was changed by the Council and agreed to by the appellant. I have used the revised description as set out in the Council's decision notices and the appellant's appeal forms in the headings above and determined the appeals on this basis.
5. 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.

6. The Hart Parking Technical Advice Note (TAN) was adopted as a Supplementary Planning Document in December 2023 after the Council made its decisions. In relation to the appeals proposal, I note that the number of parking spaces required has not changed under the TAN and, in any event, parking provision was not a reason for refusal.
7. Additional documents were submitted during the course of the applications. The evidence indicates that, of these, Budget Estimate Issue 3 dated 20 July 2022, was not taken into account by the Council in its determinations, but has been submitted as part of the appeals¹. In addition, the appellant has submitted two more documents as part of the appeals, Schedule of Repairs to Existing Building Version 1 rev 1 and Schedule of Repairs to Existing Building Version 2 rev 1, for my consideration.
8. These additional documents do not amend or evolve the scheme which was considered by the Council and interested parties at the application stage, instead they provide additional information and justification for the proposal. Moreover, the Council and interested parties have had the opportunity to appraise and comment on their contents as part of the appeals process. Therefore and for the avoidance of doubt, I have had regard to Budget Estimate Issue 3 and Schedule of Repairs Version 1 and Version 2 in my determination of the appeals and I am satisfied that the parties' interests are not prejudiced by this approach.
9. The Council's statement refers to the appeals scheme in terms of it being 'enabling development'. However, with reference to Historic England's advice on this matter², in my judgement, it does not constitute enabling development³. Additionally, there is nothing before me in the appellant's evidence which advances a case for the proposal being enabling development; rather there is a focus on the public benefits balance as required under Paragraph 208 of the Framework, particularly in terms of it securing the optimum viable use of the asset. Therefore, for the avoidance of doubt, I have not assessed the proposal in terms of it being enabling development.
10. At the time of my site visit I saw that works had been carried out within the area on the ground floor proposed for use as two retail units, and I note the Council's reference to the submission of an application for the internal fit-out of this space⁴. The details of that application are not before me. However, given my conclusion on the main issue, I have not pursued this matter with the parties.

Main Issue

11. The main issue is whether the proposal would preserve the Grade II listed building known as 108 High Street or any features of special architectural or historic interest which it possesses.

¹ Documents Lists for 22/00938/FUL and 22/00939/LBC.

² Historic England Enabling Development and Heritage Assets, Historic Environment Good Practice Advice in Planning: 4, 2020 (HE GPA Note 4) as referenced in the Council's statement.

³ HE GPA Note 4, Page 3 A typical example of enabling development may be a proposal for houses near a listed building that would not normally be given planning permission (for example because it would be in breach of countryside policies), but where the listed building's long-term future can only be secured by using the uplift in value of the land resulting from that development.

⁴ Application Ref: 23/02474/LBC.

Reasons

Special interest and significance

12. The appeals relate to the Grade II listed building 108 High Street (No 108)⁵ which occupies a prominent position on the main thoroughfare within the village of Odiham. Dating from the 18th and 19th centuries, it is a two storey with basement, mid-terraced, property which is constructed of red brick with a red tile roof. A square carriage arch at the east side of the building leads to a yard.
13. The property is currently vacant, but was previously occupied by, a retail unit at ground floor, which incorporates an early 19th century shopfront; and a four-bedroom residential unit at first floor, which the evidence states possesses, mostly unaltered, 19th century planform and features.
14. From the evidence before me, the special interest and significance of the listed building is largely derived from its architectural and historic interests in illustrating an 18th century property which has evolved over time, with its remodelling during the 19th century of particular note. Important contributors in these regards which are pertinent to the appeals include, its use of traditional methods of construction and materials; its surviving historic fabric and features of special interest; the legibility of its extant historic planform; and its polite architectural style.
15. The parties make passing reference to changes which have been undertaken to the interior of the listed building during the 20th century, mainly at ground floor level. The appellant also highlights the 'many years of neglect' the building has suffered under former tenants. Nonetheless, these have not unduly diminished the building's overall heritage merit.

Proposal and effects

16. The proposal involves the subdivision of the existing ground floor retail unit into two retail units; change of use of part of the ground floor to C3 to create a studio flat, including alterations to two windows; and subdivision of the existing first floor flat to create a one-bedroom flat and a two-bedroom flat.
17. The Council does not object to the principle of retail and residential uses at ground floor level and residential use at first floor level. Given the historic uses of the property, I have no reason to disagree. Additionally, the Council accepts the principle of the subdivision of the retail space to the front of the building to create two retail units. Bearing in mind previous alterations to this part of the property, I concur with this view, and find that, subject to the submission of detail, this aspect of the proposal would have the potential to preserve the special interest of the asset and not harm its significance.
18. Nonetheless, the proposed changes to facilitate the creation of three flats, including the alterations to windows at ground floor level and the removal of walls/partitions (in full or in part) at first floor level, would result in the irreversible loss, or modification of, historic fabric, as well as features of special interest including cupboards, dado rails, skirting boards and architraves. These elements of the proposal would undermine the building's special interest.

⁵ Heritage List for England, List Entry Number: 1339929.

19. Additionally, the blocking up of existing doorways and formation of new doorways to create two flats at first floor level would alter the historic circulation within this part of the building. Furthermore, the introduction of new en-suite pods/bathroom facilities within the separate flats would weaken the hierarchy of rooms/spaces on this floor and the authenticity of how they are experienced. This would markedly compromise the legibility of the building's extant 19th century planform at this level, which is an acknowledged important phase in the building's narrative.
20. I am also aware that very little information regarding the detail of the proposal has been provided as part of the applications/appeals. It is imperative that any proposal is accompanied by drawings and specifications of sufficient detail and accuracy to illustrate and/or describe the planned 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 plans and schedules submitted, to be inadequate and ambiguous in these respects.
21. Crucially, no details have been submitted regarding the formation of the new bathrooms; the provision and routing of utilities to any new bathrooms and/or kitchens; and the installation of what appears to be some form of wall lining. Moreover, additional elements are referenced in the Budget Estimates and Schedules of Repairs, such as secondary glazing, and thus advanced to be taken into account in terms of the optimum viable use of the asset, but are not included on any of the plans. All of these elements have the potential to affect historic fabric and features of interest within the building but, due to the lack of information provided, no meaningful appraisal of them can be made. Given the status of the building, it would not be appropriate nor acceptable to leave such fundamental matters to conditions.
22. I acknowledge that the scheme before me has been amended from a previous proposal⁶, and note the appellant's assertions that it has 'minimised the impacts' of the scheme. I am also aware that several historic features of interest would be retained in situ, such as architraves, grates and fireplaces; and others are proposed to be 'recycled', such as doors. However, it remains that elements of the proposal would dilute the identified heritage interests of the asset. Indeed, even those aspects that intend to salvage and relocate features of interest, would only serve to confuse the evolution of the building and would not satisfactorily mitigate the harm.
23. Overall, the proposal would harmfully erode the historic and architectural integrity of the listed building and would not conserve the asset in a manner appropriate to its significance. As such, it would not preserve No 108's special interest and would harm its significance.

Public benefits and heritage balance

24. Paragraph 205 of the Framework advises that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.....This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.' Paragraph 206 goes on to state that significance can be harmed or lost through alteration or destruction of the

⁶ Application Refs: 20/02997/LBC and 20/02996/FUL, refused December 2021.

heritage asset or from development within its setting and that this should have clear and convincing justification.

25. 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 nature of the proposed development and works, I find that the harm to the significance of No 108 would be 'less than substantial'.
26. It is common ground between the parties that less than substantial harm would occur to the significance of No 108, although the appellant contends that it would be 'to a minor degree' or represent 'a relatively low level of less than substantial harm'.
27. Decision makers are not obliged to place the harm that would be caused to the significance of a heritage asset somewhere within the identified category in order to give the necessary great weight to the asset's conservation. The Framework's division of harm into categories of 'substantial' or 'less than substantial' is adequate to carry out the weighted balancing exercise to determine whether a proposal is acceptable. In any event, a finding of less than substantial harm does not amount to a less than substantial planning objection and carries considerable importance and weight.
28. Paragraph 208 of the Framework requires this harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In undertaking this balance, I have considered the public benefits advanced by the appellant, the focus of which is that the proposed development and works are 'necessary for sustaining an optimum viable use for the building and its long term future'.
29. With reference to advice set out in the Planning Practice Guidance (the PPG)⁷ on this matter, there are aspects of the proposal that would undoubtedly be positive and of public benefit. It would contribute an additional retail unit and two additional residential units to the overall commercial/housing supply and mix in the area. Heritage and environmental benefits would accrue from reducing or removing risks to a heritage asset through the refurbishment and reuse of this currently vacant building. In addition, economic and social benefits would flow from the refurbishment/repair phase and general investment into the property, as well as from the occupation of the retail and residential units. It is also likely that future occupiers would support local services and facilities, potentially assisting the vitality and viability of Odiham village and its community.
30. Together these outcomes would facilitate the delivery of the main objectives of the planning system as outlined in the Framework and represent benefits that would flow to the public at large. The scale of the benefits is tempered by the fairly modest extent of the proposal, but still carry weight in favour of the appeals.
31. Nonetheless, given my conclusions on the effects of the proposal, I cannot agree with the appellant that the scheme before me would sustain or enhance the significance of the asset. Moreover, I am not persuaded that it would, in the terms set out in the PPG⁸, secure its optimum viable use.

⁷ Planning Practice Guidance Paragraph: 020 Reference ID: 18a-020-20190723.

⁸ PPG: Paragraph: 015 Reference ID: 18a-015-20190723 and Paragraph: 016 Reference ID: 18a-016-20190723.

32. The PPG advises that 'If there is only one viable use, that use is the optimum viable use. If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.'
33. In support of their case, the appellant has submitted a Marketing Report produced by London Clancy dated October 2021 and Budget Estimates and Schedules of Repairs with Costings. The Report states that, following two and a half years of marketing the property, 'the only viable option is to re-develop the premises to a high standard in creating multiple units in order to increase the Gross Development Value'. The evidence cites a predicted loss of approximately £255,000⁹ if the building is put back into a good state of repair, as opposed to an anticipated profit of approximately £112,000¹⁰ if it is refurbished as proposed.
34. I acknowledge that, as advised in the PPG, 'it is important that any use is viable, not just for the owner, but also for the future conservation of the asset as a series of failed ventures could result in a number of unnecessary harmful changes being made to the asset.' I also recognise the constraints of the existing building and its layout/uses in terms of market demand and attractiveness.
35. However, there is little information regarding the basis on which the building was marketed. Additionally, there are ambiguities in the costings regarding elements of development/work which do not form part of the appeals proposal and/or could reasonably be said to go beyond 'repairs'. I also note that the costings make no reference to any sum agreed or yet to be agreed with the previous tenant in terms of 'dilapidations'. These factors limit the weight that can be attached to this evidence in support of the proposal.
36. In any event, the PPG is clear in stating that the 'optimum viable use may not necessarily be the most economically viable one.' The submitted information focuses on one perceived 'viable use'. There is no substantive evidence before me, such as an options appraisal, which demonstrates that the appeals proposal, as presented, is the only viable use of the building and/or that it is the one likely to cause the least harm to the significance of the asset.
37. The information provided as part of the applications confirmed that 'the property is considered to be of satisfactory structural order'¹¹. Whilst some repairs may be required in the short to medium term, no compelling evidence is before me which demonstrates that the building's conservation as a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, was not implemented.
38. As stated in the PPG, 'harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised.' In all of the above respects, I am not convinced that the appeals proposal represents the optimum viable use of this asset or that the harm would be minimised. On this basis clear and convincing justification has not been provided for development

⁹ Appellant's Statement of Case Para 3.2.13.

¹⁰ Marketing Report, London Clancy, dated October 2021, Section 4.

¹¹ Madlins Report, Dated November 2019.

and works that would compromise the building's significance to an unacceptable degree.

39. Whilst I give moderate weight to the recognised public benefits that would accrue from the proposal, these are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage asset.
40. Accordingly, the proposal would not preserve the Grade II listed building known as 108 High Street or any features of special architectural or historic interest which it possesses. The building's significance would be harmed and this would not be outweighed by the public benefits of the proposal. It would therefore conflict with the statutory presumptions set out in sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also not accord with Policies NBE8 and NBE9 of the Hart Local Plan (Strategy and Sites) 2032 (adopted April 2020) insofar as they seek development proposals to: conserve or enhance heritage assets, taking account of their significance; and achieve a high quality design.

Other Matters

41. No 108 is located within the Odiham Conservation Area (the OCA). Mindful of the statutory duty set out in section 72(1) of the Act, I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area. The OCA takes in the historic core of the village, which incorporates a mix of commercial and residential uses, and verdant open land 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 No 108 means that it supports and reinforces the positive qualities of the OCA and in doing so contributes in a tangible way to the OCA's character and appearance as a whole and thereby to its significance as a designated heritage asset.
42. Bearing in mind the extent and, mainly internal, nature of the proposal, I find that it would have a neutral effect on, and therefore preserve, the character and appearance of the OCA as a whole. As such, the proposal would not harm the significance of this designated heritage asset. I note that the Council raised no concerns in this respect either. Nevertheless, this weighs neither for nor against the appeals and does not alter my conclusions on the main issue.

Conclusions

43. **Appeal A:** The proposed development would conflict with the development plan. 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.
44. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

F Cullen INSPECTOR