



Appeal Decision

Site visit made on 21 August 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2024

Appeal Ref: APP/A1530/W/24/3341469

**Midland House, Second Floor, North Station Road, Colchester, Essex
CO1 1RB**

- 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 A Moses of Purple Fox Enterprises Ltd against the decision of Colchester City Council.
 - The application Ref is 240078.
 - The development proposed is alterations to existing ground floor fenestration only.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to existing ground floor fenestration only at Midland House, Second Floor, North Station Road, Colchester, Essex CO1 1RB in accordance with the terms of the application, Ref 240078, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MHNS.26.H.LP, MHC.26.PR.501 (insofar as it relates to the external alterations only), HC.26.PR.502 Rev a and MHC.26.PR.503 Rev a.
 - 3) The new facing brickwork shall match the existing brickwork in respect of material, colour, texture, face bond and pointing.
 - 4) Prior to the commencement of any works, additional drawings that show details of any proposed new windows and cills to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.
 - 5) No demolition or construction work shall take place outside of the following times;
 - Weekdays: 08:00-18:00
 - Saturdays: 08:00-13:00
 - Sundays and Bank Holidays: No working.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Midland House is a modern building occupying a corner plot on the junction of North Station Road and Victoria Chase. It has a staggered frontage and design features creating a vertical emphasis which makes the building appear more closely related to the generally smaller scale commercial units. It is faced in brick and hanging tiles, with a parapet roof corner feature and projecting windows to the first floor. The ground floor front elevation has a number of large pane windows, typical of modern retail properties, facing onto North Station Road.
4. The proposal would see the large pane windows replaced with a more domestic scale fenestration pattern of three windows, and the wide commercial door replaced with a more modest double doorway. The proportions of the proposed openings would reflect those on the first floor of the property. The vertical emphasis would remain. Details of materials could be controlled by condition. There is no substantive justification before me as to why the external appearance of the ground floor should be different to indicate that it is in a different use to the upper floors. The proposed alterations would therefore have an acceptable effect on the appearance of the building.
5. The site lies within Colchester Conservation Area 4: North Station Road and Environs) where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. Its significance is derived from its eclectic mix of building stock and diverse character reflecting the development of the area as influenced by socio-economics and the development of infrastructure.
6. The Character Appraisal (CA) sets out that the street frontage from North Bridge to John Harper Street comprises modest commercial units at ground floor level, the independent nature of which contributes to the diverse character of the area. My observations at my site visit were consistent with this assessment. The diverse character of the area includes a range of building styles and shop fronts. There is very little consistency in the appearance of the commercial units and some of the units do have windows which are more domestic in scale and appearance. The proposal would therefore not appear incongruous.
7. The CA notes that vacant former office buildings seem most likely to be converted to residential use and the planning history of the site sets out that this has been the case for much of Midland House. The Council confirmed in its statement that its reason for refusal should be read as including concerns that the proposed alterations would limit the potential commercial uses that could occupy the site, and that this in turn would have a detrimental effect on the vibrancy of the area.
8. It must be noted that the appeal before me does not propose the change of use of the ground floor, only external alterations. The parties both refer to the ground floor as being in Class E use which allows for a wide range of retail and

commercial uses to take place within the property. There is no substantive evidence before me to demonstrate that the proposal would make the property less attractive to commercial occupiers. It would be a matter for the Council should any application for a change of use be submitted. I therefore would not be able to conclude that the proposal would result in an adverse effect on the vibrancy of the area, which is an important component in its character.

9. Alterations are also proposed to the side and rear elevations of the property. No concerns with these are identified in the Council's officer report and I have no reason to find otherwise. The proposed development would therefore have a neutral effect on the character and appearance of the surrounding area, including the CA.
10. The proposal would therefore be in accordance with Colchester Borough Local Plan 2013-2033 Section 1 Policy SP7 which requires development to preserve the quality of existing places. It would not conflict with the purposes of Colchester Borough Local Plan 2017-2033 Section 2 Policy NC2 which requires development to contribute to the regeneration of the area.

Other Matters

11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The properties at The Victoria Inn, North Primary School and 30-32 North Station Road are all Grade II listed. The significance of all of the buildings relates to their historic fabric and evidence of the historic development of the area. The proposed development would have no effect on the setting of each of these buildings as the alterations to the external appearance of a modern building. This constitutes a lack of harm and is therefore a neutral factor in this appeal.

Conditions

12. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the National Planning Policy Framework and I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans.
13. It is reasonable and necessary to impose a condition requiring the materials in the proposed alterations to match the existing and to provide finer details of the proposed windows in the interests of the character and appearance of the area. In the interests of precision, I have removed the tailpiece from the materials condition. It is also reasonable and necessary to limit the working hours during the construction phase of the proposal given the proximity of residential properties.

Conclusion

14. For the reasons set out above the appeal is allowed.

Jennifer Wallace INSPECTOR