

Appeal Decision

Site visit made on 3 September 2024

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/J0405/W/24/3345386

**The Old Telephone Exchange, Market Hill, Buckingham,
Buckinghamshire, MK18 1JT**

- 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 V Anderyassian against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 23/03078/APP.
 - The development proposed is two storey roof extension to provide 8no. flats and change of use of the ground floor to provide 1no. residential unit and ancillary residential uses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have confirmed within their appeal statement that reason for refusal 5 concerning accessibility has been addressed and that the proposal would accord with policy H6c of the Vale of Aylesbury Local Plan (2021).

Main Issues

3. The effect of the proposal on:
 - the character and appearance of the area, with particular reference to the Buckingham Conservation Area;
 - the setting of the heritage assets known as No6 Market Hill and Christs Church Hospital;
 - the setting of the Former Post office building as a non designated heritage asset.
4. In addition to the above:
 - whether the loss of the existing employment use is appropriately justified;
 - whether the proposal would result in acceptable living conditions for the future occupiers in terms of noise, light, outlook and privacy;

Reasons

Character and appearance of the area, with particular reference to the Buckingham Conservation Area

5. The Buckingham Conservation Area covers a significant proportion of the central part of the town centre. It is characterised by strong building lines and a number of significant historical buildings which harmoniously integrate with the fabric of the town centre. Whilst there is evidence of buildings of varying heights and scale, there is also a great deal of synergy between the scale and form of existing buildings, particularly those fronting Market Square.
6. The entrance to the appeal site is located on the south side of Market Square and is flanked by the post office building and No6 Market Hill. The existing structure is basic in design however functional in terms of its previous use. The addition of two storeys to the existing building would add significantly to the bulk and massing of the building in this backland location. Whilst I accept that the existing building is of limited visibility within its immediate environment, this is in part due to the single storey nature of the structure as it sits behind the post office building. Even taking into account the mansard roof design, the proposal would be noticeable in close range views from the street.
7. The proposal would increase the prominence of the appeal property, particularly when viewed in the context of the immediate commercial environment. Due to the elevated nature of the Market Square, there are very clear and direct views of the site from this part of the Conservation Area. These views would be dominated by the extensive glazing, external walkways and wide expanse of balconies which would add to the massing of the building and would be uncharacteristic of most other properties in the immediate vicinity. It would fail to reflect the local distinctiveness and townscape character of the locality. The design details which have been included would not be sufficient to mitigate the adverse visual effects which would result.
8. The appellant has referred to other examples of development in the vicinity of the appeal site at 2 Market Hill and Marksham Court. However, I do not agree that the appeal proposal shares any characteristics of these developments which would provide justification for the design approach adopted here. Whilst I note the comparison the appellant has made between the appeal scheme and a previous refusal on the site, I am assessing the appeal proposal as it appears before me.
9. As a result of the height, bulk and massing of the building, it would appear as a prominent addition to the street scene generally and would fail to relate to the existing scale and context of the surrounding area. It would as a result fail to preserve the character and appearance of the Buckingham Conservation Area. The proposal would therefore conflict with policies S1, BE1 and BE2 of the Vale of Aylesbury Local Plan (2021). Policy S1 states that in assessing development proposals, consideration will be given to, amongst other things, (g) minimising impacts on heritage assets. Policy BE1 requires that all development should seek to conserve heritage assets in a manner appropriate to their significance, including their setting. Policy BE2 requires,

amongst other things, development proposals to respect and compliment the physical characteristics of the site and surroundings including the scale and context of the site and local distinctiveness.

10. My attention has also been drawn to policy NE4 of the Vale of Aylesbury Local Plan (2021). This policy deals primarily with landscape character and locally important landscapes and is not directly relevant to the issues before me.

Setting of No6 Market Hill and Christs Church Hospital

11. I have had special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses in accordance with sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

No6 Market Hill

12. This is a Grade II listed property currently operated as a butchers shop and delicatessen. It has a traditional shop front with plain detailing and the main elevation faces Market Hill. It is a corner property, located at the entrance to the appeal site. Its significance is derived from its built form and fabric, with particular features of note being the traditional shop front and red brick detailing with Flemish bond. From what I saw on my site visit, the extent to which its setting contributes to its significance is very much related to the property's immediate environment, being a corner property with flank wall detailing exposed and reflecting the commercial role and function of these properties fronting Market Hill.
13. The appeal proposal would result in a change to the buildings located behind this heritage asset. This change would be particularly prominent in the elevated views from Market Square, where the low rise nature of the existing building ensures the property is read as a backland development. However, notwithstanding the harm I have identified above in relation to the character and appearance of the Conservation Area, I am not convinced that this change to the townscape would result in harm to the significance of this heritage asset, or the appreciation of the significance of the heritage asset. It would also not change the relationship of the heritage asset with Market Hill. As a result, I conclude that the proposal would not result in any harm to the setting or significance of the heritage asset concerned.

Christs Church Hospital

14. This is a grade II listed property located on Market Hill at the junction with Verney Close. The building is arts and crafts style, with red brick and Flemish bond detailing, boundary treatment to the pavement frontage in the form of a low wall and railings as well as high level architectural detailing in the form of an ornate balcony to the first floor which is proportionate in scale and form to the property. There are modern buildings located along Verney Close which sit directly behind this building and provide the existing backdrop to the heritage asset. The extent to which its setting contributes to its significance is very much limited to its immediate environment on Market Hill.

15. Taking into account the location of this property relative to the appeal site, the separation distances involved, as well as the existing built development along Verney Close, the proposal would not result in any harm to the significance of this heritage asset, or the appreciation of the significance of the heritage asset.

The Former Post office building as a non designated heritage asset

16. Paragraph 209 of the Framework advises that when considering potential impacts of proposed development, the effect on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
17. The former post office building which is located at the vehicular entrance to the appeal site is a non designated heritage asset. The significance of the property is derived from its built form and fabric, being a neo Georgian style building with a central doorway. It is set back from the main road and makes a positive contribution to this part of the Conservation Area, being readily visible from Market Hill and marking an attractive junction of the Conservation Area.
18. Whilst I have set out above the adverse effect the proposal would have in the context of the Conservation Area as a whole, this harm would not effect the significance of this non designed heritage asset. This is because the significance of this building is very much derived from its built form and fabric, and the contribution which the setting makes to this non designated heritage asset is minimal.

Other heritage assets

19. I have also had due regard to the setting of other heritage assets in the vicinity which have been identified as the Lower Shop the Upper shop (Grade II) The Old Gaol (Grade II*) and the White House (Grade II) . Whilst all of these individual buildings have their own special characteristics which contribute to their significance, they are all located within the town centre where part of their common significance is derived from their historic interest as town centre buildings. In the context of these buildings, I am of the view that little of their significance is derived from their setting. Taking into account the separation distances involved, I conclude that the proposal would not result in harm to the setting or significance of these additional heritage assets.

Whether the loss of the existing employment use is appropriately justified

20. Policy E2 of the Vale of Aylesbury Local Plan (2021) advises that outside of employment sites, the redevelopment of an employment site will be permitted provided a number of criteria are met. In this instance, the Council allege conflict with criteria (c) which states that the site should be marketed as an employment site for an employment suitable to the site and location at a suitable price, by appropriate means for at least 2 years with no viable interest.

21. The planning application now the subject of this appeal was submitted in October 2023. The supporting planning and conservation area statement states that the building has been vacant since June 2022 and has been marketed since September 2022 for class E and B8 use. Conversely, the appeal statement states the building has been vacant for more than 13 years with extensive marketing but provides no further details.
22. Whilst the supporting planning and conservation area statement summarises what interest has been expressed in the unit, paragraph 6.9 of the Local Plan sets out what information is expected to be provided in support of the marketing case. In particular, no details have been provided regarding the marketing exercise undertaken, the guide prices, details of agents appointed or details of the marketing exercise undertaken. Even if these details had been provided, the evidence states that the property had only been marketed for a 13 month period prior to the application being made.
23. The appellant contends that the class E use does not contribute towards the viability of Buckingham town trade. However, this use is covered by policy E2 which I have summarised above. Furthermore, the statement that the site is not economically viable is not supported by any evidence.
24. I therefore conclude that the loss of the existing employment use has not been adequately justified. Accordingly the proposal would conflict with policy E2 of the Vale of Aylesbury Local Plan (2021). My attention has also been drawn to policies S1, S2 and S3 of the aforementioned local plan as well as policy EE2 of the Buckingham Neighbourhood Development Plan (2015).
25. Policy EE2 identifies the appeal site and a number of neighbouring properties for new mixed use development. The policy identifies that proposals will be supported for new mixed use development of office usage on upper floors, with residential development permitted on upper floors where the primary ground floor frontage is A1, A2, A3, A4 or A5. I do not have any details before me concerning what proposals might be brought forward on neighbouring sites. However, there would be scope for the mix of uses described above to come forward across the site as a whole and as such I do not consider the proposal would result in a direct conflict with this policy objective.
26. Policy S1 addresses sustainable development within Aylesbury Vale and is a criteria based policy. Part (b) states that consideration should be given to proposals which provide a mix of uses, especially employment, to facilitate flexible working practices so minimising the need to travel. As a result of the proposal solely focusing on residential use, the proposal would lead to a conflict with this policy. Policy S2 identifies the spatial strategy for growth across the plan period and policy S3 relates specifically to the settlement hierarchy and cohesive development. I do not consider these policies to be directly applicable to the issues before me.

Whether the proposal would result in acceptable living conditions for the future occupiers in terms of noise, light, outlook and privacy

27. The noise assessment which accompanied the application includes a survey of existing ambient noise levels which was completed in June 2023. This issue is pertinent given there are service areas associated with the post office and associated delivery office function and Waitrose which abut the site. Whilst the report concludes that noise levels can be mitigated to meet indoor ambient noise levels for dwellings, there are no specific details which set out how these levels will be achieved. Instead, the report makes generalised statements regarding the balconies, wall materials and glazing providing the ability to reduce noise levels.
28. In my view, any measures deemed necessary from an acoustics perspective are integral to the design of the development. This is particularly important for two reasons. Firstly, the sites location within the Conservation Area. Secondly, the proximity of the appeal site to the delivery office and the hours and frequency of heavy goods vehicles using the access road and service yard which, given the very nature of the business operating here, tends to be focused on late night and early morning activity. The Environmental Health Officer has suggested that this could be addressed by an appropriately worded condition. Given the clear omissions regarding the mitigation measures necessary, I share the Council's concerns that there is no certainty that the ambient noise measures could be achieved.
29. Turning to consider light and outlook from the proposed units, the Council's concerns relate specifically to the relationship between flat 3 and flat 4 (overlooking and loss of privacy to flat 4), flat 9 (loss of light, outlook and privacy) and the relationship between flats 7 and 8 (overlooking and loss of privacy). The proposal is not supported by any technical analysis concerning the levels of light that the units will receive. The supporting statement merely states that the scheme will provide good levels of sunlight through the day and that there is a good distance between the neighbouring buildings and the property so none of the dwellings will have an overbearing outlook.
30. I note that the units would all meet the nationally described space standards. From the plans provided, in terms of flat 9, whilst I note that the three openings on the principal elevation would face onto the parking area, this in itself is not unusual in a town centre location. With regards to the positioning of the windows to the south east and south western elevations and the distance from the building to the boundary walls, whilst I agree that the outlook for these windows maybe limited as a result, these are bedroom windows and given the sites town centre location, this again is not unusual. I have no technical evidence before me to support the assertion that the layout as proposed would result in reduced levels of light for these rooms. Furthermore, the Council have not referred me to any specific standards which would not be met as a result of the layout proposed. Accordingly, I conclude that the proposal would result in an acceptable layout for flat 9 in terms of light, outlook and privacy.
31. Turning to consider the relationship between the lounge window at flat 8 and the rear bedroom window at flat 7, whilst I acknowledge the relatively close

relationship between these windows, I consider that given the town centre location, the size of the units proposed as well as the orientation of the windows, the layout would not give rise to undue overlooking and loss of privacy. In terms of the similar concerns expressed in relation to flat 3 and flat 4, for the same reasons I draw the same conclusions and do not consider the layout would result in any material harm in this regard.

32. In light of the above, I conclude that the proposal would result in acceptable living conditions for the future occupiers in terms of light, privacy and overlooking. However, the proposal would fail to result in acceptable living conditions for the future occupiers in terms of noise. The proposal would therefore conflict with policy BE3 of the Vale of Aylesbury Local Plan (2021). Policy BE3 states that planning permission will not be granted where the proposed development would not achieve a satisfactory level of amenity for future residents. Reference has also been made to policy NE5 of the aforementioned local plan. This policy relates to significant noise generating development and is not applicable to the proposal before me.
33. The reason for refusal also refers to policy DHE6 of the Buckingham Neighbourhood Development Plan (2015) however this policy relates specifically to the provision of good quality private outdoor space. The Council have not raised any concerns in this regard and I can see no reason to disagree with this conclusion. Accordingly, the proposal would accord with this policy.

Other Matters

34. In addition to the main issues highlighted above, the Council also raised concerns as to whether the proposal makes adequate provision for any additional need for local services, amenities and infrastructure arising from the development. Although the appellant has stated that they would content to address these matters through the provision of a legal agreement, I have no such document before me. As I am dismissing the appeal for other reasons, this is not something which I have sought to address within the decision.
35. Although I note specific concerns have been raised regarding the adequacy of the landscaping proposed, the Council have not articulated what these concerns relate to. They have also concluded that the proposal would have an acceptable impact in terms of soft landscaping. Accordingly, I have not sought to address this matter within my decision.
36. The appellant has referred to a number of policies in the emerging Vale of Aylesbury Local Plan. I have not been provided with copies of these policies and have determined the application in accordance with the development plan.
37. The appellant states that the site is a financial burden, the proposed use would generate less traffic by both car and foot than the existing use and that the appellant may consider serving a purchase notice on the Council. Furthermore, the site is a brownfield site and in a sustainable location. Whilst I acknowledge these points, they do not provide sufficient justification for the proposal before me to warrant a decision which would clearly conflict with the development plan as a whole. The appellant has also raised

concerns regarding the consistency of decision making with the Council, however this is not a matter for my deliberation. Reference is made to the potential for a fall back position to allow the conversion to residential use. I have not been provided with any details regarding the fall back position and as such have attached limited weight to this. The assertion that the proposal would deliver economic benefits in terms of construction jobs fails to recognise that the proposal would result in the loss of the existing employment use which I have addressed in detail above.

38. There appears to be agreement between the parties that the Council are unable to demonstrate a five year supply of housing sites. The proposal would deliver 9 residential units. However, in this instance there would be harm arising to a designated heritage asset and this provides a clear reason for refusing the development proposal. As such, the consideration of the proposal in relation to the tilted balance identified by the Framework is not engaged in this instance.

Conclusion

39. For the reasons given above the appeal should be dismissed.

C Masters

INSPECTOR