
Appeal Decision

Hearing held on 17 September 2024

Site visit made on 17 September 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11th of October 2024

Appeal Ref: APP/E0345/W/24/3343524

10 Eaton Place, Reading RG1 7LP

- 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 Hamble Residential Ltd against the decision of Reading Borough Council.
 - The application reference is 201104.
 - The development proposed is demolition of the existing building and redevelopment of the site to provide a residential building of 5-storeys (Use Class C3) and associated public realm improvements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was modified following a change to the proposal from an 8-storey to a 5-storey building. The agreed description employed the phrase 'up to 5-storeys', as might be used in relation to an outline scheme. I have therefore instead used the description which appears in the Statement of Common Ground as it is more precise.

Main Issues

3. The main issues are:
 - whether the proposed development would both provide acceptable living conditions for its future occupants in relation to noise and disturbance, and be compatible with the existing use of the adjacent public house;
 - the effect of the development on the amenity of patrons of the adjacent public house in relation to privacy; and
 - the effect of the development on the character and appearance of the area, including whether it would conserve the significance of a Grade II listed building.

Reasons

Noise and disturbance

4. The site is located immediately to the rear of The Butler, a public house which operates as a live music venue. Aside from 2 small courtyards, most of the

space at the back of the pub is covered by single storey buildings, one of which houses the main indoor performance area used for live music events.

5. The rear elevation of the proposed building would closely abut the plot on which The Butler stands, and would rise vertically at the boundary. Openable windows serving bedrooms in 14 of the 15 proposed flats would be located from the first floor upwards within this elevation. The distance between these windows and the building which houses the indoor performance area would vary, with some of those on lower floors very close. Given both the high level of exposure of the rear elevation as a whole, and the fact that live events typically finish around midnight, a strong potential would exist for the disturbance of sleep.
6. Monitoring undertaken over the course of a few days in October 2018 confirmed the potentially intrusive nature of road noise. As the main performance area of The Butler was not used during that period, the data was however of little value in understanding the likely impact of live music events. Further monitoring carried out between 30 November 2023 and 4 January 2024 has sought to address this. But though a number of events were held during this period, that held on New Years' Eve was a silent disco. The period in question was also during the winter. It therefore remains the case that no monitoring has taken place during the hot summer months, when the external doors to the performance area are most likely to be left open. The latter would result in the transmission of higher levels of sound to the surrounding area than if the doors were kept shut, as is most likely during the winter. That being so, the data collected by the appellant remains insufficient to provide a full picture of the noise impacts associated with live music events likely to arise year-round, or to represent the 'worst case scenario' claimed.
7. The appellant's proposed solution is the fitting of high specification glazing and mechanical ventilation with heat recovery systems (MVHR). This would block external noise whilst maintaining air flow. In the absence of full background evidence, it cannot however be demonstrated with any certainty that this would be adequate all year round. The appellant further confirmed that it would be difficult to verify performance once the building was constructed. The above being so I can attach little weight to the appellant's claim that the performance of such glazing would cater for higher noise levels than have so far been identified.
8. Future occupants might at times close their windows and switch on the MVHR in relation to traffic noise. Live music performances would however typically occur at times when nearby roads were less busy. Noise generated by a live music venue and that generated by traffic is in any case different in character, and of the two sources, only that generated by music could potentially qualify as a statutory nuisance, and be subject of local control. Within this context paragraph 193 of the National Planning Policy Framework (the Framework) indicates that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Music venues are specifically identified.
9. The appellant's proposed solution is one provided as an example within the Planning Practice Guidance (PPG). Mitigation of this type relies upon the actions and cooperation of occupants to be effective, and neither can be secured by condition. The PPG further indicates that it can be useful to make future

occupants aware in advance. The experience of living with and having to react to noise would however come with time. The PPG accordingly makes clear that mitigation will help to minimise the risk of complaints rather than prevent them. In the current case, even had I accepted that the appellant's solution would work year-round, the risk of complaint would remain heightened given the uncomfortably close relationship that would exist between bedroom windows and the main performance area at The Butler.

10. If therefore appears that if the appeal was allowed there is a strong likelihood that future occupants would sooner or later complain about noise generated by live music. Concerns that restrictions might then be placed on The Butler thus appear well founded. Such an outcome would be contrary to that envisaged by paragraph 193 of the Framework as set out above.
11. The appellant has indicated that similar concerns were not raised in relation to development permitted on an adjacent site. However, I have not been provided with full details of that scheme, and it is apparent that a different relationship would exist between it and The Butler.
12. Noise generated by a tyre fitting business which occupies one of the buildings to the rear of The Butler has not been the subject of any monitoring. Though interested parties suggested that this was a recently established 'pop-up' use, this was not a point that the Council was able to confirm. Whilst some uncertainty thus surrounds this additional potential source of intrusive noise, it makes no difference to my findings above.
13. For the reasons outlined above I conclude that the appellant has failed to demonstrate that the development would both provide acceptable living conditions for its future occupants in relation to noise and disturbance, and be compatible with the existing use of the adjacent public house. The development would therefore conflict with Policy CR6 of the Reading Borough Local Plan 2019 (the Local Plan) which, in the absence of mitigation, seeks to restrict the location of new residential next to existing uses which give rise to unacceptable levels of noise and disturbance, and Policy CC8 of the Local Plan which seeks to secure acceptable living conditions for new residential properties including in relation to noise and disturbance.

Privacy

14. Future occupants of the flats could directly overlook the 2 small courtyards at the rear of the pub. Overlooking would be from the open balconies and decks provided at first floor level and above. Though The Butler's main beer garden is located at the front of the pub, the larger of the 2 courtyards is also available for use by small numbers.
15. The extent to which privacy is a reasonable expectation when visiting a public house is somewhat doubtful. Public houses are by definition places frequented by and open to the public. In the current case, any user of The Butler's main beer garden could be observed by passers-by from various locations within the street, as well as by other patrons who may be strangers. The latter would also be true of the courtyard at the rear. None of this can be considered unusual.
16. The Butler sometimes hosts private functions in the space used for live music events. As the adjoining courtyard is not currently open to view from outside the plot, its users can enjoy some degree of privacy on these occasions.

Interested parties additionally suggested that such users might sometimes include children. But the latter would presumably be accompanied by adults, and even within the context of a private function, the setting would ultimately remain that of a public house.

17. For the reasons outlined above I conclude that the development would not have an unacceptable effect on the amenity of patrons of the adjacent public house in relation to privacy. Insofar as the Council again cited Policies CR6 and CC8 of the Local Plan in relation to this matter, neither are relevant as both relate to residential development and amenity.

Character and appearance

18. The Butler is a Grade II listed building, and thus a designated heritage asset. Whilst the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the desirability of preserving listed buildings and their settings, paragraph 205 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets.
19. Insofar as it is relevant to this appeal, the special interest and significance of The Butler resides in its early C19th date and historic establishment as a public house. Within this context it has an ornate frontage and domestic scale, including the main 2-storey range and the collection of attached largely single storey buildings to the rear noted above.
20. Though The Butler was once embedded within a townscape characterised by other buildings of similar scale and grain, it currently survives as an isolated relic, its immediate historic setting having been largely erased by post-war road widening, road building and redevelopment. Part of this process involved the extension of Eaton Place to Chatham Road, opening a raw edge along the east side of the plot on which The Butler stands, exposing buildings to the rear to public view. Further exposure is provided by the car park to the south which forms part of the appeal site. Given the degree of change, the immediate setting of The Butler currently contributes little to its significance. Though its openness nonetheless enables the significance of the building itself to be appreciated more directly than would otherwise be the case, this is obviously at odds with the context as it existed historically.
21. Within this context Policy CR12 of the Local Plan promotes the regeneration of the surrounding 'sub-area'. The policy emphasises the need to give careful consideration to areas of transition, and to conserve and where possible enhance the settings of listed buildings. In so doing it also seeks to restrict buildings of 'inappropriate' scale on the fringes of the sub-area, which include Eaton Place. Policy CR12 thus presents an opportunity to address the fractured nature of the townscape, and in so doing to better reveal the significance of the listed building.
22. As outlined above, the proposed building would rise vertically to a height of 4-storeys immediately to the rear of The Butler, with a further 5th floor slightly stepped in. The jump in height between it and the cluster of largely single storey buildings attached to the back of the pub would be both startlingly abrupt and visually overwhelming. Whilst it would provide no meaningful sense of transition it would also appear directly at odds with the more modest 'backland' character of its immediate setting. This would not be addressed by the use of a palette of materials apparently inspired by The Butler. Indeed,

whilst this would do little or nothing to resolve the failure of the development to physically integrate, it would also be entirely unconvincing given the extent and nature of other differences.

23. The failure to integrate would be further underlined by the provision of balconies and decks across the rear elevation of the proposed building, the outlook from which would be almost wholly across the buildings and space to the rear The Butler. Whether or not this would be acceptable in relation to privacy, the arrangement would appear unusual, and the relationship that would exist between the first floor balconies and adjacent roofs would be acutely awkward.
24. As noted above, the proposed building has lost 3 storeys since the application was first submitted. Clearly, the impact of an 8-storey building would be even more physically and visually pronounced. However, the impact of the 5-storey building before me cannot be justified on the basis of some more harmful hypothetical alternative. Nor can it be held that the presence of taller buildings on the opposite side of Eton Place legitimises the design approach taken, given that those buildings stand within a distinctly separate block and sub-area.
25. I share the appellant's view that utilising almost the full footprint of the appeal site would represent optimisation, and that in this sense the development would not be 'cramped'. The overall height and massing of the building proposed would nonetheless appear contextually inappropriate.
26. As Policy CR12 is not supported by any adopted masterplan, design code or development brief, the design of the proposed building was at least partly informed by proposals and permissions on adjacent sites within the sub-area. In this way the appellant sought to demonstrate the 'comprehensive' approach advocated by Policy CR12. A substantial proposed development immediately to the south of the site has however since been refused permission. Though development at No 115 is moving forward, as noted above, this seeks to provide a sense of transition between it and The Butler which is absent from the design of the appeal proposal. A scheme for the conversion of buildings to the rear of The Butler itself has now lapsed. This however only appears to have informed the proposed design insofar as it would have involved removal of a gable ended roof form whose continued presence would now directly compromise provision of the proposed first floor balconies. The design of the appeal scheme cannot therefore be clearly justified by reference to other developments either approved, refused, or lapsed, within the sub-area.
27. The proposed development would provide a new frontage on Eaton Place and include some minor improvements to the public realm. However, the overriding impression would remain its highly insensitive relationship with The Butler. The appeal scheme would thus fail to take the opportunity available to enhance or better reveal the significance of the listed building, instead strongly detracting from its appreciation.
28. The harm caused to the significance of the listed building would be less than substantial. Such harm attracts considerable importance and weight. In accordance with paragraph 208 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
29. The appeal scheme would see a disused brownfield site within an accessible location identified for regeneration put to productive use, providing 15 new

dwelling, including 4 affordable units. Though, as a generality, the value of using such sites attracts substantial weight, in this case the scale of the related social and economic benefits would be limited, and would be directly undermined by the provision of unacceptable living conditions for future occupants. That being so the identified benefits would not outweigh the harm that would be caused to the significance of the listed building. Having further regard to the Framework, this finding provides a clear reason for refusing permission.

30. For the reasons set out above I conclude that the development would harm the character and appearance of the area, including through its failure to conserve the significance of a Grade II listed building. The development would therefore conflict with Policy EN1 of the Local Plan which expects proposals to protect and where possible enhance the significance of heritage assets and their settings; Policy CC7 of the Local Plan, which seeks to secure development that maintains and enhances the character and appearance of Reading; and Policy CR12 of the Local Plan, as outlined above.

Other Matters

31. The application was partly refused on the basis that the provision of affordable housing and private waste collection, and contributions towards carbon offsetting and employment skills/training had not been secured. A Section 106 agreement (S106) has since been concluded between the parties in order to address these matters. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary to consider the S106 in further detail. However, as I am dismissing the appeal for other reasons no further consideration is required.
32. The Council's decision was made contrary to officer recommendation. Though this was a matter protested by the appellant at the Hearing, the Council's Committee was entitled to reach a different view.

Conclusion

33. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan taken as a whole. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Georgia Foy	(Heritage/Townscape) Icen
Graham Parry	(Noise) Accon-UK
Steve Shaw	Hamble Residential Ltd
Lewis Westhoff	(Planning) Icen

For the Local Planning Authority

Burcu Can Cetin	(Heritage) RBC
Richard Eatough	(Planning) RBC
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Interested parties

Karen Rowland	Ward Member
Alison MacLennan	Third Sector Law, representing The Butler
Richard Stainthorp	Reading Civic Society
Steve Stanton	The Butler