



Appeal Decision

Hearing held on 12 November 2024

Site visit made on 12 November 2024

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Appeal Ref: APP/G3110/W/24/3349996

Courtyard by Marriott Oxford City Centre, 15 Paradise Street, Oxford, OX1 1LD

- 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 Dominus Oxford Hotel Limited against the decision of Oxford City Council.
 - The application Ref is 24/00191/FUL.
 - The development proposed is extension to the existing top floor of the hotel to provide additional hotel bedrooms.
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Decision

1. The appeal is allowed, and planning permission is granted for extension to the existing top floor of the hotel to provide additional hotel bedrooms at Courtyard by Marriott Oxford City Centre, 15 Paradise Street, Oxford, OX1 1LD in accordance with the terms of the application, Ref 24/00191/FUL, and the conditions in the attached schedule.

Preliminary Matters

2. The Council's third refusal reason relates to protected species. At the time that it made its decision it was of the view that the information submitted was inadequate to justify the effect of the proposal on the existing bat boxes. Additional information was submitted with the appeal relating to this, which included survey work. In the Statement of Common Ground (SoCG) the Council confirmed that it is satisfied that this additional information demonstrates that the proposal would not cause harm to roosting bats.
3. Similarly, the Council's fourth refusal reason relates to biodiversity net gain. At the time that it made its decision it was of the view that the information submitted did not demonstrate that the proposal would deliver the necessary 5% uplift. A technical note relating to biodiversity net gain was submitted with the appeal. This demonstrates that the proposal would result in an increase above the required 5%. In the SoCG the Council confirmed that it is satisfied that this adequately addresses the matter.
4. Having reviewed the information relevant to these matters, I see no reason to take a different view. Accordingly, these matters should not form main issues of the appeal.

Main Issue

5. The effect of the proposal upon the significance of the nearby heritage assets including Oxford Castle and St George's Tower, Church of St Thomas the Martyr, Coopers Marmalade Factory, and Morrells Brewery; and whether the proposal would preserve or enhance the character and appearance of the Central Conservation Area.

Reasons

6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) require the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Significance and setting

7. The existing hotel building stands in a tightly developed urban location with waterways to the front and rear and buildings to either side. The building faces towards St George's Tower and the Castle Mound.
8. St George's Tower is a grade 1 listed building¹ that dates from circa 1071. It is a tall rubble stone building with walls that are gently battered with very few external openings. It is a striking building that is referred to in the list description as a rare piece of stone military architecture surviving from the conquest period and was probably the earliest stone building in the Castle. It has a high level of aesthetic, architectural and historic value. Its solid appearance and form points clearly to its defensive role, and its height was necessary to give a commanding view to the surrounding hills where activity and movement would have been carefully monitored.
9. The Castle Mound is grade 1 listed and part of a scheduled ancient monument². It is to the northeast of the Tower. It represents the remains of a motte and bailey castle, and the motte or castle mound is easily identified and is prominent to view in the local area. It has a high level of historic importance as a surviving early defensive structure that played an important role in the development of the city. Its visual connection with the wider landscape remains and is a key characteristic to understanding its purpose.
10. Despite the extensive way that the city has developed, the visual connection between these defensive structures and the surrounding landscape remains today and is an important characteristic of setting that contributes to their significance.
11. The Church of St Thomas the Martyr is a grade II listed building³ that dates from the 12th century. It stands on the historic route out of the city to the west, and once had a less developed setting. Much of the development that now surrounds it is part of Oxford's 18th and 19th century expansion. Given its position, the Castle forms part of its setting due to its historic association as a

¹ List Entry Number: 1369490

² List Entry Numbers: 1369493 and 1007730.

³ List Entry Number: 1047122

defensive structure that protected the westward route. The Church can be seen from the top of St George's Tower and the Castle Mound where it is viewed at the end of St Thomas Street. This association is an aspect of the setting of the Church that contributes to its significance, although given the limited direct visibility and the hemmed in setting of the Church at street level, the level of contribution this characteristic makes to the significance of the Church is limited.

12. The Cooper's Marmalade Factory is a grade II listed building⁴ that stands to the north of the Church and dates from the early 20th century. It has a polite front elevation that faces towards a wide area of public realm and contributes to the character and appearance of the area. Its front elevation is a refined and prominent composition, that points to the company's confidence in its product.
13. To the side the more functional aspects of the building can be appreciated, and this includes the ability to view its tall brick chimney stack. From these perspectives the industrial significance of the building can be understood. The chimney is visible in skyline views and from St George's Tower. Views of the chimney point to the industrial heritage of this part of the city. The chimney stands above the level of the surrounding buildings when viewed from the Tower, however it is not easily appreciated in the context of the other buildings associated with the factory. Therefore, views from this perspective only modestly contribute to the significance of the building.
14. The Morrells Brewery buildings are immediately to the north of the appeal site. These include a brick chimney that is prominent to view from the Tower and Castle Mound. Their significance is derived from their industrial appearance and history, and the prominent chimney contributes to an appreciation of the industrial heritage of this part of the city where it is seen in wider views.
15. The Central Conservation Area (CCA) is a large and historically rich area. The appeal site stands within the western fringe character area. The area is densely developed and modern development that is often of a large scale is positioned immediately alongside older areas and buildings, which can make it feel fragmented. This part of the CCA includes surviving medieval plots that create a dense urban grain that is of historic significance. More recently it has seen considerable industrial development, with buildings of a functional industrial scale and appearance that include chimneys. Historic England refer to the area as having an industrial toughness. These are distinctive aspects of this part of the CCA that contribute to its overall character and appearance.
16. The taller structures referred to above contribute to the much celebrated Oxford skyline, that includes its dreaming spires. The 2015 report⁵ sets out how this has been recognised and protected from a planning perspective, and highlights the significance of particular views. From these distant countryside views the tight form of the city, and the intimate association it has with its landscape setting, can be appreciated. This is a key characteristic of the setting of the conservation area that contributes to its significance and is similarly a valuable spatial relationship that contributes to the significance of the City's historic domes, towers and spires.

⁴ List Entry Number: 1381170

⁵ Assessment of the Oxford View Cones 2015 Report

Impacts

17. The existing top floor of the hotel covers approximately half of the building's footprint with the remaining area primarily given over to a roof top terrace. The existing top floor accommodation is largely inward facing, with most of its external face without openings and clad in a living green wall system. Its façade is set back considerably from the floors below on the east and west side.
18. The proposal would see the formation of a full top storey by extending the existing floor to the north, east and west. Along the east side a whole row of additional bedrooms would be added, which would bring the top floor out to the outer edge of the building. On the west side the extension would draw the floor out towards the edge of the building, but it would be set back from the façade below. The top floor would be clad in copper with vertical standing seams. Where extended, the walls would lean back modestly. Although the proposed top floor would be much larger than the existing, the modest setbacks and angle of the walls would retain a sense of a diminishing hierarchy across the floors of the building, especially when viewed from street level.
19. A direct and close view of the existing top floor of the hotel is easily achieved from the top of St George's Tower. From here the hotel is viewed in the context of various substantial modern structures, older buildings with a finer grain and the surrounding landscape. A wide panoramic view can be enjoyed from here, of which the hotel only occupies a small part. However, given that this viewpoint is so close to the hotel, the current green clad walls and roof terrace that form its top floor are highly prominent to view.
20. The plant clad walls were intended to soften the appearance of the top of the hotel, particularly in this view and when the building is viewed from the adjacent Castle Mound. Had the cladding been successful then this aim may have been realised. Cladding walls in vegetation is a design solution that has been used for decades and there are many successful examples that have stood the test of time.
21. However, the cladding system used on the appeal building has failed significantly. At the time of my visit the plants were not thriving; and in many places, owing to the state of the plants or their complete absence, the black cladding system that supports the plants was visible. As a result, this top part of the building currently looks unkempt, and photos taken from other times of year that are before me show that this issue is not limited to the winter. Rather than serving to soften the impact, at my visit I found that it drew the eye due to its unconventional and untidy appearance, and that it is a significantly detracting feature in the westward view from the top of the Tower.
22. The proposal would result in a larger top floor. The extension would only limit the view of a modern building that is currently seen over the existing terrace. This view is of no consequence. The extension would not interrupt views of any historic buildings from this perspective, and it would remain well below the skyline, so would have no impact on the ability to look towards the surrounding landscape. This would also be the case in the more restricted views that are taken from a lower level through the arrow slit openings. The proposal would not constitute an obstruction that would disconnect the surviving elements of the Castle from its wider landscape setting.

23. The Council suggests that the proposal would create a distraction from this perspective, introduce visual competition and change the character by introducing an increased mass and bulk in the foreground of the view. The proposal would make the top floor more broad and solid. The expanse of material would be broken up by its vertical seams. Additionally, the cladding would develop some colour variations as it weathers and its earthy colours would reduce its prominence in these high-level views.
24. These characteristics would mean that the façade would have a grain and softness that would ensure it would not be harmful and would be similar to the metal cladding on the roofs of the buildings to the south of the site. Furthermore, the building would have a tidier and less assertive appearance when compared with the existing unsuccessful green wall system, and its green roof would retain a visual connection with urban trees in the foreground and the more distant landscape beyond the City. For these reasons I am satisfied that the proposal would not harm views out from the top of the Tower. The significance of this view that is derived from its strategic position and connection with the landscape would be unharmed, as would its association and visual connection with other tall heritage assets referred to above, such as the Church and industrial chimneys.
25. The view from the Castle Mound is at a lower level, and broadly level with the top of the hotel. From this perspective the green wall cladding has a similarly scruffy appearance and draws the eye, and the cladding surrounding the roof mounted plant is a negative feature. The extension to the footprint of the fifth floor would have no impact on views over the building. Views over the building to the surrounding landscape would remain, and a view across the top of the green roof would provide a visual link with the wider natural landscape.
26. The change would be easy to see from the Castle courtyard. From here the hotel is very much secondary to the Tower, and this relationship would be little altered by the additional massing. The materials proposed would not appear out of place in the context of the use of metal cladding for walls and roofs within the courtyard area, and they would have a more benign appearance than the failed green walls.
27. In the views from Raleigh Park and Hinksley Heights Golf Club St Georges Tower can be seen, though it is difficult to make out easily with the naked eye. The submitted Visual Impact Assessment⁶ provides a considered analysis of the proposal's impact from these perspectives. The change to the top of the hotel building would feature in these views but would be so minor that it would have no real impact. The prominence of the Tower in these views would be unaffected, and the extended hotel would continue to read as part of the lower lying urban development, that sits below the celebrated skyline. In the context of Policy DH2 of the Oxford Local Plan 2036 (LP) the special significance of Oxford's historic skyline would not be harmed, and the impact would be positive owing to the replacement of the failing green walls.
28. From street level, views of the existing building are limited owing to the height and density of development in the area. From Paradise Street to the south the existing building is seen behind the flats on Woodin's Way. It is taller than these buildings and the existing top floor is highly prominent to view. From here the existing green walls look highly inelegant. The backing structure is

⁶ Heritage, Townscape and Visual Impact Assessment December 2023

easily viewed and in places entirely exposed. As a result, it draws the eye and detracts from what are otherwise well detailed elements of the existing building such as the playful articulation of the brick below. The proposal would significantly enhance this view by providing a good quality and neat design solution, that would read as secondary to the brickwork beneath and thus not result in a building that appears bulkier.

29. The same can be said of the impact of the proposal on the southern corner of the building as viewed from the Woodin's Way bridge. From here the existing structure has an incongruous appearance that would be significantly improved by the proposed extension. In views from St Thomas Street, Quaking Bridge and Tidmarsh Lane the proposal would have limited impact. The extension would respect the massing of the building and would represent a comfortable upscaling from the modest scale of the building immediately to the north of the site. For these reasons the proposal would have a positive appearance on the character and appearance of the area, and thus on this part of the CCA.
30. In summary, the proposal would not have a harmful effect on the significance of the listed buildings identified, and it would preserve the character and appearance of the CCA. It would accord with the requirements of the LBCA and Paragraph 205 of the National Planning Policy Framework (Framework) which states that great weight should be given to the conservation of a heritage asset. It would also accord with Policies DH1, DH2, DH3 and DH5 of the LP. Together these seek to ensure that development proposals are of a high quality of design, do not harm the special significance of Oxford's historic skyline, and respond positively to the historic environment.

Other Matters

31. The existing building stands close to the flats to the west. It restricts outlook as well as impacting on light levels for those who occupy the flats. The proposal would add to the existing building along this side and bring the top floor out towards the edge of the building, with four outward facing bedroom windows. The submitted daylight and sunlight report⁷ demonstrates that the impact has been carefully analysed, as well as the impact on other sensitive adjacent receptors. It shows that actual impacts on daylight and sunlight would be very modest, and it confirms that all windows will demonstrate British Research Establishment compliance.
32. The existing hotel windows that face towards these flats are angled to control the outlook. It is still possible to look directly from the hotel rooms towards the windows of the flats through clear glass, but such a view is restricted and only achieved when standing very close to the window; Across most of the room area the outlook is almost entirely restricted by heavily obscured glazing. The proposed top floor windows would adopt the same approach. The proposed windows would be set back behind the main façade, which would further restrict the ability of guests to look down. On this basis I am satisfied that the proposal would not noticeably alter the existing relationship, and such matters should not form a main issue of the appeal.
33. With regard to third party concerns about parking and related highways matters, the increase in accommodation would be modest in the context of the existing provision. Parking on site is currently limited to a drop off area, and

⁷ GIA Daylight & Sunlight Impact on Neighbouring Properties Report 13 December 2023

there is no evidence before me to suggest that this provision is insufficient to manage a modest increase in guest numbers. Matters raised such as the conflict between large coaches and the narrow roads adjacent to the hotel relate to the principle of the existing hotel use, which is already permitted, and would be little altered by the proposal. Therefore, the impact of the proposal on the operation of the existing highway network should not form a main issue of the appeal.

34. The proposal would see the loss of the existing roof terrace. Whilst this loss would appear to be a retrograde step in terms of the amenities available to hotel guests, the appellant advises that the terrace is not well used. Additionally, there is no policy requirement for a hotel to provide such spaces. Therefore, this is not a matter that should weigh against the proposal.

Conditions

35. I have had regard to the conditions suggested by the Council and included within its statement of case. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed condition 2 to specify the approved plans, to give certainty.
36. Condition 3 is necessary to manage and minimise the impact of the construction works on those who live near to the site and on the highway network.
37. Conditions 4, 6 and 7 are necessary to manage the impact of the development on species and habitats, and to facilitate the delivery of biodiversity net gain as well as ensure that the visual mitigation afforded by the green roof is secured.
38. Condition 5 is necessary to ensure that the proposal is well detailed and appropriate for its historic context, to safeguard the character and appearance of the area and the setting of the various listed buildings. Condition 8 is necessary to manage the impact of additional external lighting on the living conditions of those who live nearby, and on the character and appearance of the area.
39. Condition 9 is necessary to ensure compliance with development plan policies relating to carbon reduction.

Conclusion

40. For the reasons above, the appeal should be allowed.

A Tucker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 6086-P1-001, 6086-P1-002, 6086-P1-015, 6086-P1-016, 6086-P1-017, 6086-P1-020, 6086-P1-021, 6086-P1-030, 6086-P1-101, 6086-P1-105, 6086-P1-106, 6086-P1-200, 6086-P1-201, and 6086-P1-300.
- 3) A Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved commences. The CTMP shall include details of the following:
 - The routing of construction vehicles and management of their movement into and out of the site by a qualified and certified banks person,
 - Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network),
 - Details of wheel cleaning / wash facilities to prevent mud, etc from migrating on to the adjacent highway,
 - Contact details of the Site Supervisor responsible for on-site works,
 - Travel initiatives for site related worker vehicles,
 - Parking provision for site related worker vehicles,
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours, and
 - Engagement with local residents.

The development shall be carried out in full accordance with the approved CTMP unless otherwise agreed in writing by the Local Planning Authority.

- 4) No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following:
 - Risk assessment of potentially damaging construction activities,
 - Identification of 'biodiversity protection zones' in respect of protected and notable species and habitats,
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on biodiversity during construction (may be provided as a set of method statements) and biosecurity protocols,
 - The location and timing of sensitive works to avoid harm to biodiversity features,
 - Contingency / emergence measures for accidents and unexpected events, along with remedial measures,

- Responsible persons and lines of communications,
- The role and responsibilities on site of a qualified ecological clerk of works (ECoW) or similarly competent person if required, and times and activities during construction when they need to be present to oversee works, and
- Use of protective fences, exclusion barriers and warning signs.

The development shall be carried out in full accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.

- 5) Before they are installed on site, samples of exterior materials of the extension hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 6) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is first brought into use. The content of the LEMP shall include the following:
 - Description and evaluation of features to be managed,
 - Ecological trends and constraints on site that might influence management,
 - Aims and objectives of management,
 - Appropriate management options for achieving aims and objectives,
 - Prescriptions for management actions,
 - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period),
 - Details of the body or organisation responsible for implementation of the plan, and
 - Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 7) Before the development hereby approved is first brought into use the ecological enhancements outlined in the submitted report (Biodiversity Net Gain Technical Note Tyler Grange Report No. 16425_R02_GW 9 August 2024) shall be completed.
- 8) Prior to the installation of any external lighting associated with the development hereby approved, an external lighting strategy for the newly developed top floor including details of light fixtures shall be submitted to and approved in writing by the Local Planning Authority. All new external lighting shall be installed in accordance with the specifications and locations set out in the approved external lighting strategy, and shall be

maintained thereafter in accordance with the strategy. No other external lighting associated with the development hereby approved shall be installed without the prior written consent of the Local Planning Authority.

- 9) The development hereby approved shall be carried out in full accordance with the recommendations of the submitted Energy Commentary (BPP Ltd Ref B1128 20 December 2023).

APPEARANCES

FOR THE APPELLANT:

Mr Ian Mayhead MRTPI, Director, Planning, Icen Projects

Mr Laurie Handcock, IHBC, MCIfA, Director, Built Heritage and Townscape, Icen Projects

Mr Ian Fergusson MRTPI, Planning Director, Dominus

Mr Craig Slack MRTPI, Planning Associate, Dominus

Mr David Lindsay ARB, Development Manager, Dominus

FOR THE LOCAL PLANNING AUTHORITY:

Victoria Ashton BA (Hons) (Geography and Politics), MSc (Spatial Planning) – Planner

Gill Butter BA (Hons Architecture) BArch (Hons) Arb IHBC – Principal Heritage Officer

Robert Fowler – BSc (Hons) MA MRTPI – Development Management Team Leader

INTERESTED PARTIES:

Charlie Jacobs, Oxford Preservation Trust

Stephen Dawson, Oxford Preservation Trust

Rosamund Diamond, resident (2 Lower Fisher Row)

Janette Harrington, resident (9 The Lion Brewery)

DOCUMENTS

- 1) Copy of the Western Fringe Character Zone Assessment 6 provided by the Council via email dated 12.11.24. Requested by the Inspector at the Hearing.
- 2) Email confirmation dated 12.11.24 from the appellant confirming agreement to the use of pre-commencement conditions, in the event that the appeal is allowed. Requested by the Inspector at the Hearing.
- 3) Email dated 13.11.24 from the appellant providing a copy of the Committee Report for planning application ref. 16/02689/FUL (the planning permission for the existing building). Requested by the Inspector at the Hearing.