



Appeal Decisions

Site visit made on 4 February 2025

by **F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal A Ref: APP/T0355/W/24/3353933

3 Nicholsons Lane, Maidenhead, Windsor and Maidenhead SL6 1HR

- 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 Tariq Majeed against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/02744/FULL.
 - The development proposed is part change of use of 1st floor from A3 (restaurant) to C3 (residential), demolition of existing conservatory, construction of new conservatory and raising of roof at rear, new dormers to accommodate for the addition of 1 flat.
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Appeal B Ref: APP/T0355/Y/24/3354137

3 Nicholsons Lane, Maidenhead, Windsor and Maidenhead SL6 1HR

- 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 Mr Tariq Majeed against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/02745/LBC.
The works proposed are part change of use of 1st floor from A3 (restaurant) to C3 (residential), demolition of existing conservatory, construction of new conservatory and raising of roof at rear, new dormers to accommodate for the addition of 1 flat.
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Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Preliminary Matters

3. The applications were made in the name of Mr Tariq Majeed and the appeals were made in the name of Mr Safian Majeed. It has been confirmed that this was an error and the appeals are proceeding in the name of the applicant.
4. During the appeal process, the Government published a revised version of the National Planning Policy Framework (the Framework)¹, upon which the parties were given the opportunity to comment. I have taken the revised Framework and any responses received into account in my determination of the appeals.
5. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.

¹ December 2024.

6. As the appeals concern a listed building located within a conservation area, in line with sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act), I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses; and paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. As part of the determination of Application Ref: 23/02744/FULL, the Council assessed the proposal against its Interim Position Statement on Sustainability and Energy Efficient Design (2021) and found conflict, as set out in the Decision Notice's third reason for refusal. During the appeal process the Council adopted a Sustainability Supplementary Planning Document (SSPD)² which I have taken into account in my determination of Appeal A. As the appellant has had the opportunity to comment on the SSPD in relation to the proposal as part of the appeal process, I am satisfied that the appellant's interests are not prejudiced by this approach.
8. As part of the appeals the appellant has submitted documents which did not form part of the applications and were not considered or consulted on by the Council in its decisions³. Mindful of guidance⁴ and caselaw⁵ concerning amendments to schemes in the appeal process, the documents do not include a substantial difference or fundamental change to the development and works, rather they provide additional information in support of the appellant's case, particularly concerning the third reason for refusal in Application Ref: 23/02744/FULL. Additionally, the Council and any interested parties have had the opportunity to comment on these documents as part of the appeal process. On this basis, I exceptionally accept the additional documents and I have taken them into account in the determination of the appeals.

Main Issues

9. The main issues are:
 - Whether the proposal would i) preserve the Grade II listed building or any features of special architectural or historic interest which it possesses and ii) preserve or enhance the character or appearance of the Maidenhead Town Centre Conservation Area (Appeals A and B);
 - Whether the proposed development would provide satisfactory living conditions for future occupiers, with regard to the provision of private and communal outdoor amenity space (Appeal A); and
 - Whether it has been demonstrated that the proposed development would adapt to and mitigate climate change (Appeal A).

² September 2024.

³ Structure Review Report by Mann Williams Consulting Civil and Structural Engineers, dated 29 November 2012; Comparable Report by Belvoir, dated 13 February 2013; and Energy Statement by C80 Solutions, dated November 2023 along with SAP Baselines and Calculations for Flats 3 and 5 by elmhurst energy.

⁴ Procedural Guide: Planning Appeals – England. Dated September 2024. Section 16, Paragraph 16.1.

⁵ *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the 'Wheatcroft principles' set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982).

Reasons

Listed building and conservation area

Special interest and significance

10. The appeal property is a Grade II listed building known as 'Stables Immediately to East of 3 and 5 King Street'⁶ and is located within the Maidenhead Town Centre Conservation Area (the MCA).
11. The building dates from circa 1870 and is constructed of red brick with a slate roof. Historically, it was multi-storey stables, in an L-shaped plan, formed by two wings around a small courtyard. The stables were associated with the, now demolished, Nicholsons Brewery. Drays were housed on the ground floor in arched openings off the courtyard, a curved external stair with a shallow rise led to stables and tack room on the first floor, and a hayloft was on the second floor.
12. From the evidence before me, the special interest and significance of the listed building mainly stem from its architectural and historic interests, in illustrating a rare survival of an unusual 19th century purpose-built stable block, which was linked to a large brewery complex. Important contributors in these regards include its traditional construction and materials; surviving historic fabric; imposing form with a principal three-storey gable wing to Nicholsons Lane and secondary two-storey return wing to the north; modest but robust design incorporating minimal openings and features; and associations with Nicholsons Brewery.
13. The building has been changed in the past, most notably being its conversion and alteration to offices, then to a restaurant, followed by the incorporation of three flats. These changes included the addition of a large glass 'conservatory' that encloses the historic yard and stair. Even so, the building's intrinsic heritage merit has not been unduly eroded and its historic plan form and function remain legible and perceptible.
14. The listed building is located on a service road to the rear of the High Street within the MCA, which encapsulates the historic core of Maidenhead. From the evidence before me, the special interest and significance of the MCA are largely derived from the preservation of its historic centre and street pattern, along with the architectural richness and variety of its historic buildings, including those which signify its evolution as an important stopping point for coaches on the Great West Road. Being the only surviving remnant of the Nicholsons extensive town centre brewery site and one of only four listed buildings in the MCA⁷, the appeal property positively contributes to the character and appearance of the MCA as a whole, and thereby to its significance as a designated heritage asset.

Proposal and effects

15. Paragraph 212 of the Framework sets out, 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. Paragraph 213 goes on to state that, significance can be harmed or lost through the asset's alteration or destruction or from development within its setting and that this should have clear and convincing justification.

⁶ National Heritage List for England List Entry Number: 1300802.

⁷ As stated in Maidenhead Town Centre Conservation Area Appraisal, dated 2016.

16. There are a number of omissions, inaccuracies and/or inconsistencies between the existing plans and elevations, and the building as viewed on site; and also between the existing and proposed plans and elevations submitted as part of the applications and appeals⁸. Moreover, there is a notable deficiency of detail regarding elements of the proposed scheme⁹. To avoid doubt about what is proposed and to enable a meaningful assessment, it is imperative that drawings are accurate and unambiguous, and that sufficient detail is provided.
17. These deficiencies are highly undesirable in general terms, but even more so given the building's Grade II listed status and its location within a conservation area. Nonetheless, I have assessed the main aspects of the proposal and their effects as well as I can, based on the plans and information before me.
18. Given the age and poor condition of the modern conservatory, I have no objections to the principle of its replacement, particularly with one of a more 'lightweight' and 'less intrusive' structure, as advanced by the appellant. However, the inclusion within the replacement conservatory of a substantial box dormer, incorporating an awkward junction with the historic roof pitch of the main three-storey wing, would add considerably to this element's overall bulk and massing, resulting in a dominant and discordant addition to the building.
19. Additionally, given the proposed residential use of this part of the first floor and dormer for Flat 3, and the reasonable desire of any occupier for privacy within these internal spaces, particularly the bedroom, I am not convinced that the structure would appear as 'lightweight' as the appellant contends. Moreover, although the historic stair would be retained, the creation of a new entrance off the hallway from the spiral staircase to access Flat 3¹⁰ would lead to a disconnect of this key feature of interest with its historic purpose as a route to access the first floor.
20. Taken together, this aspect of the proposal would harmfully compete with and detract from the building's traditional form and character, markedly compromising the ability to interpret and appreciate its historic layout and function.
21. With regard to the rear wing, I acknowledge the poor condition of the roof and the stated intent of the appellant to retain the existing roof structure internally and externally. However, there is no substantive evidence which confirms that increasing the height of the building in this manner whilst retaining the roof structure, would be practically feasible, and/or if there would be any structural implications for the building. Even if it was confirmed as being possible, the proposed increase in height of this part of the building by 1.1m would lessen its subservience in relation to the main three-storey wing, and in doing so notably alter the historic hierarchy of the primary and secondary wings as part of its L-shaped plan.
22. The dilution of the building's historic form and character would be exacerbated by the incorporation of two large box dormers that would cover the majority of the rear roof pitch, and two balconies on the rear elevation. By virtue of their substantial size, overtly domestic form and starkly modern design, albeit with 'Victorian style

⁸ These include, but are not limited to, rainwater goods and extract equipment not shown; inaccuracies and ambiguities in the presence/position/size of rooflights and window openings; and inconsistencies in the presence/position of the rear dormers.

⁹ These include, but are not limited to, the replacement conservatory and dormer; rear dormers; fenestration; internal openings; and PV panels.

¹⁰ As shown on drawing P_011, Proposed First Floor Plan.

screening' to the balconies, these features would uncomfortably jar with the understated form of this historic building.

23. The creation of new and/or changes to existing fenestration, be they rooflights or windows, would result in the irreversible loss of historic fabric, and adversely disrupt the building's historic high solid to void ratio and plain appearance. This change would be particularly apparent on the prominent east elevation. Whilst the appellant states that all new windows would match the existing, this is not evidenced on the plans and no supporting detail in this respect has been provided. The Structure Review Report submitted by the appellant confirms that the creation of new openings would be structurally feasible. However, I am mindful that the Report is over 10 years old and does not relate to the proposal before me. In any event, that the building may be able to accommodate interventions of this form, does not mean that they are appropriate or acceptable with respect to the building's heritage interests.
24. I note the appellant is willing to accept conditions to cover the detail of the development and works. However, the concerns and deficiencies set out above go to the heart of the acceptability of the proposal, and I am not persuaded that it would be appropriate to leave such matters to conditions.
25. Taking all of the above into account, the proposal would result in harmful intervention into, or alteration of, important aspects and key features of the building's special interest and significance which underpin its authenticity and integrity as a designated heritage asset.
26. If the special interest and significance of such an important and prominent component of Maidenhead town centre would be harmed in the ways outlined above, it logically follows that there would be some associated harmful effects to the character and appearance of the MCA as a whole.
27. I conclude that the proposal would not preserve the Grade II listed building or any features of special architectural or historic interest which it possesses, nor would it preserve or enhance the character and appearance of the MCA, and would cause harm to the significance of these designated heritage assets.

Public benefits, heritage balance and conclusion on the first main issue

28. In finding harm to the significance of designated heritage assets, the Framework requires the magnitude of that harm to be articulated. Given the nature and extent of the proposed development and works, I find the harm to the significance of the listed building and the MCA would be, individually and cumulatively, 'less than substantial' but, nevertheless, of considerable importance and weight. Paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.
29. The proposal would provide two additional residential units in a highly accessible location and at, what the appellant states would be, an 'affordable' rent, thus contributing to the overall mix and supply of housing in the locale. Economic and social benefits would flow from the proposal's construction phase, as well as from the occupation of the additional flats with any occupiers supporting local services and facilities, sustaining the vitality of the town centre. Additionally, heritage and environmental benefits would accrue from the refurbishment of the building

including energy efficiency improvements, and I have had regard to the Framework's requirement in this respect¹¹.

30. Nonetheless, the application form confirms that the new flats would be 'market housing'; and there is no information before me which demonstrates that any rent charged would be 'affordable', or which provides any mechanism that would secure this in perpetuity. This lessens the weight this benefit carries in the balance.
31. I am not persuaded that the only way of securing the benefits identified above would be via the appeals proposal. Moreover, there is no compelling evidence before me which demonstrates that the proposed development and works are necessary to secure the listed building's ongoing use or that its conservation as a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, was not implemented.
32. In all of the above respects, clear and convincing justification has not been provided for the identified harm to the significance of the designated heritage assets. Overall, the moderate weight I ascribe to the public benefits which would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight I attach to the harm I have found.
33. I conclude that the proposal would not preserve the Grade II listed building or any features of special architectural or historic interest which it possesses, nor would it preserve or enhance the character and appearance of the MCA. There would be harm to the significance of the designated heritage assets which would not be outweighed by the public benefits that the proposal would generate.
34. As such, it would conflict with the statutory presumptions set out in sections 16(2), 66(1) and 72(1) of the Act. It would also not accord with Policies HE1 and QP3 of the Royal Borough of Windsor and Maidenhead, Borough Local Plan 2013-2033, adopted 2022 (Local Plan) in so far as they seek development to conserve and enhance the historic environment in a manner appropriate to its significance, and respect and enhance local historic character. It would also not comply with the provisions within the Framework which seek to conserve and enhance the historic environment.

Living conditions

35. Policy QP3 of the Local Plan and the Council's Borough Wide Design Guide, 2020 (the BWDG) set out that the provision of high quality outdoor amenity space is important, especially in tight urban environments.
36. In relation to private outdoor amenity space standards for flats, the Council submits that Flats 1 and 4 would have no private outdoor amenity space; and whilst Flats 2 and 5 would have private outdoor amenity space in the form of balconies, this would not meet the guidance in the BWDG. Flat 3, which would have private amenity space in the form of an 'indoor balcony', is not referred to.
37. However, Policy QP3 and the guidance in the BWDG concern 'new development'¹². Given Flats 1, 2 and 4 are existing, the policy and guidance do not apply. I have therefore not taken them into account in my assessment.

¹¹ Paragraph 167, Give significant weight to the need to support energy efficiency improvements to existing buildings whilst also applying the policies set out in chapter 16.

¹² Policy QP3 Character and design of new development; and BWDG Section 8 Amenity, Paragraphs 8.1 and 8.2 p64.

38. Of the new development, Flat 5 would not meet the guidance set out in Principle 8.5 of the BWDG. The appellant submits that the balcony is limited in size because of the building's listed status. In this regard, I note that the requirement to provide balconies with minimum dimensions for all flats above ground floor level is 'unless conservation, privacy or heritage issues negate against the use of balconies', which given my findings above, could reasonably be concluded to apply in this instance. I also note the appellant's assertion that the balcony could be changed to meet the guidance.
39. Nonetheless, in both of these regards I am considering the scheme as set out in the plans before me. I cannot be certain that a larger balcony, which would meet the guidance, could practicably be accommodated on the building, and I am not satisfied that it would be appropriate to leave this matter to condition.
40. Even if I accepted that conservation or heritage issues negate against the use of balconies in this instance, or that a larger balcony could feasibly be accommodated on the building and controlled via condition, the proposal would also not meet the guidance set out in Principle 8.6 of the BWDG for the provision of communal outdoor amenity space for Flats 3 and 5.
41. I am aware that, as highlighted by the appellant, Kidwells Park and Grenfell Park are nearby and could be used as alternative outdoor amenity space for occupiers of Flats 3 and 5. Nonetheless, whilst these open spaces are within a 10-15 minute walk from the site, both require crossing wide and busy roads which may discourage future occupiers to use these spaces.
42. Additionally, the provision of high quality private and communal outdoor amenity space for the exclusive use of building occupiers is a highly valued asset. Its provision within new residential developments is important to enable onsite passive and active recreational activity, and for other outdoor requirements such as drying clothes. I am not persuaded that the cited Parks would compensate for or provide an adequate alternative to the lack of provision of outdoor amenity space onsite.
43. I recognise that the existing flats were granted permission without balconies. However, these were approved prior to the adoption of the Local Plan and the BWDG and the requirements of the policies and guidance contained within them.
44. The appellant cites the approval of high-rise blocks with no, or less, outdoor amenity space, such as Blandy House and Berkshire House. Nevertheless, no details of these developments, including their location or when they were granted approval have been provided. As such, I cannot assess them against the proposal before me.
45. Accordingly, I find that the proposed development would not provide satisfactory living conditions for future occupiers, with regard to the provision of private and communal outdoor amenity space. Consequently, it would conflict with Policy QP3(l) of the Local Plan which requires new development to provide sufficient levels of high quality private and public amenity space; and the Council's BWDG as referred to above.

Adaptation and mitigation of climate change

46. Policies SP2 and EP1 of the Local Plan, amongst other things, require developments to demonstrate how they have been designed to incorporate

measures to adapt to and mitigate climate change and, where appropriate, submit supporting environmental assessments. Additionally, the Council's SSPD confirms that... 'to comply with policies SP2 and EP1 new developments must as a minimum conserve or enhance environmental quality, in the context of greenhouse gas emissions this means development must not contribute to climate change and must provide a net zero outcome.'¹³

47. The Energy Statement submitted as part of the appeals sets out that, on the basis of improved Fabric U-values to walls, flat roof, pitched roof and double glazed windows along with the inclusion of Solar PV, there would be a 55.87% reduction in predicted emissions.
48. However, no details have been provided to demonstrate how these improvements and reductions would be practically achieved. This is a significant deficiency given the building's listed status and its location within the MCA. Importantly, the submitted information does not meet the requirements of the now adopted SSPD¹⁴, and it has not been satisfactorily demonstrated that the proposal would result in a net zero carbon development.
49. Furthermore, whilst the limitations of achieving a net zero carbon development in a listed building are acknowledged, it has not been adequately substantiated why the attainment of this is not feasible or not viable. Nor has any shortfall been provided through a carbon offsetting contribution collected through the Section 106 process, or it demonstrated that this would undermine the proposal's viability¹⁵.
50. Given the considerable deficiencies in the submitted information as set out above, I am not persuaded that it would be appropriate to leave this matter to condition.
51. Accordingly, it has not been demonstrated that the proposed development would adapt to and mitigate climate change. It would therefore conflict with Policies SP2 and EP1 of the Local Plan and the Council's SSPD, as referred to above.

Other Matters

52. I have given consideration to the planning history of the building, the previous schemes submitted by the appellant at pre-application and application stage, and the amendments made by the appellant with a view to realising an acceptable scheme. I also do not doubt the substantial investment the appellant has made into the property.
53. However, the full details and circumstances which led to the approval or refusal of previous schemes are not before me. I am also mindful that, since the approvals in 2001, 2002 and 2014 there have been material changes to the decision making context at both a local and national level. Furthermore, more recently, the submitted evidence demonstrates that the Council has raised objections to fundamental aspects of the proposals which, it considers, have not been satisfactorily resolved. In any event, I have determined the appeals proposal on its own planning and conservation merits within the existing legislative and planning policy context.

¹³ Paragraph 48.

¹⁴ Appendix 1: Sustainability Checklist to be Completed and Submitted with All Applications

¹⁵ As described in Section 3.6.1 of the SSPD.

54. The appellant claims 'double standards' in the Council's approach to determining applications, with particular reference to a scheme involving an adjacent building to the rear of the appeals site¹⁶. From the information provided, there are some similarities in that the site is within the MCA and the scheme involved the creation of residential units. However, a fundamental difference is that the building is not statutorily listed. The decision making context is therefore not comparable to the proposal before me, and it attracts little weight.
55. The appellant also cites the adverse effect that the Nicholsons Quarter development will have on the appeal property. However, no details of this scheme have been provided to permit any comment.
56. I note the appellant's submissions regarding the general conduct of the Council in its pre-application assessment of proposals and the determination of the applications. However, of themselves, these matters are not within the scope of my considerations in the context of the appeals before me.

Overall Planning Balance

57. Having regard to the economic, social and environmental objectives of the Framework, the benefits which would accrue from the proposal are as set out above in the heritage balance. These benefits are tempered by the modest amount of development that is proposed but, nevertheless, carry moderate weight in the appeals' favour.
58. Against these benefits, I have found that the proposal would not preserve the Grade II listed building or the character and appearance of the MCA. Moreover, it would not provide satisfactory living conditions for future occupiers, with regard to the provision of private and communal outdoor amenity space. Nor has it been demonstrated that it would adapt to and mitigate climate change. Cumulatively, these matters attract substantial weight against the appeals.
59. I am aware of the Government's objective of significantly boosting the supply of homes and growing the economy, which are reflected in the recent changes to the Framework. In this respect, the appellant refers to the site/building as a brownfield site and in their response to the revised Framework highlights Paragraph 125(c) which requires decision makers to give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused.
60. Brownfield land or Previously Developed Land (PDL) is defined in the Glossary of the Framework. The appeals concern an existing building on a tight urban site within a built-up area, not 'land'. Moreover, the proposal concerns the reconfiguration and upward/dormer extension of the existing building, not the development of 'land'. Consequently, I am not convinced that the building/site is PDL and that this requirement of the Framework applies.
61. Nonetheless, even if I considered Paragraph 125(c) to be applicable in this instance, the Planning Practice Guidance¹⁷ is clear that it needs to be considered alongside other policies within the Framework taken as a whole. In this respect, the Framework also confirms that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance; that

¹⁶ Application Ref: 19/02698, Cancer Research UK 101 High Street Maidenhead SL6 1JX.

¹⁷ Effective use of land.

development should create places with a high standard of amenity for existing and future users; and that development should mitigate and adapt to climate change. All of which this scheme would not achieve and would result in harm, or has not satisfactorily demonstrated. In considering the Framework as a whole, the proposal would, in totality, result in substantial harm. As such, Paragraph 125(c) does not direct that it should be approved.

62. Currently, the Council cannot demonstrate a five-year housing land supply, with the assessed level of supply being stated as 4.69 years. On this basis, having regard to footnote 8 of the Framework, Paragraph 11(d) is triggered. Nonetheless, with reference to footnote 7 of the Framework, given my conclusions above, the application of policies in the Framework that protect areas or assets of particular importance, which includes designated heritage assets, provides a clear reason for refusing the proposal.

Conclusions

63. **Appeal A:** The proposed development would conflict with the development plan. There are no material considerations, including the Framework, 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.
64. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

F Cullen

INSPECTOR