



Appeal Decision

Site visit made on 25 February 2025

by **Rachel Hall BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/P4605/W/24/3349756

21-23 First Floor and Second Floor, Barr Street, Birmingham B19 3EH

- 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 K Bains against the decision of Birmingham City Council.
 - The application Ref is 2023/04020/PA.
 - The development proposed is second floor extension and conversion of existing building to create four apartments and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme that was determined by the Council showed the existing two storey building restored to red brick, with the proposed second floor extension also in red brick (drawing ref 1449/11 Revision C). Revised elevations were submitted with the appeal (drawing ref 1449/11 Revision D). On the proposed second floor extension these show altered window proportions, window detailing and string course detailing. In addition, instead of comprising red facing brick, the two storey building and second floor extension are shown as comprising blue facing brick. Taken together these amount to a substantial change to the proposal. The appellant's final comments at appeal include appendices with comments from the Council's city design and conservation officers on a revised scheme. Those comments are generally supportive, however it is unclear to which precise proposals those comments relate.
3. In any event, the appeal process should not be used to evolve a scheme and it is important that the proposal considered here is essentially the same as that considered by the Council. The Council has had the opportunity to comment on Revision D as part of the appeal process, but it is unclear whether other interested parties have had the same opportunity. As such, taking the revised plans into account could cause prejudice or injustice to interested parties. Therefore, the appeal is determined with regard to Revision C only.
4. The appeal site is outside of the Jewellery Quarter Conservation Area (the Conservation Area), the boundary of which runs alongside the appeal site on Barr Street. No 21-23 (the three storey appeal building) is described as an ornate 19th century works building and is identified as a non-designated heritage asset. I return to this subsequently.
5. A revised National Planning Policy Framework (Framework) was published on 12 December 2024. The main parties were given the opportunity to comment on the

implications of this policy change in relation to the appeal. Any comments provided have been taken into account in this decision.

Main Issues

6. The main issues are:

- whether it has been demonstrated that the proposal would be acceptable having regard to the loss of industrial use; and
- the effect of the proposal on the character and appearance of appeal building and surrounding area, with particular regard to the effect on the setting of the Conservation Area and No 21-23 as a non-designated heritage asset.

Reasons

Industrial use

7. Policy TP20 of the Birmingham Development Plan 2031 (January 2017) (BDP) allows for employment uses to change to other uses provided one of two criteria are met. It is not submitted that the building comprises a non-conforming use (criterion one). The appellant considers that the appeal site is no longer fit for purpose, being no longer suitable for employment use (criterion two). Accordingly, marketing details for use of the appeal building for office, workshop or storage space are submitted. Such marketing is said to have started in January 2024.
8. The agent for this (Maguire Jackson) advises that while the ground floor was successfully let, there has been little interest in the upper floors. These were empty at the time of my site visit. Further, the agent advises that the lack of interest is likely to continue. However, Policy TP20 indicates that such marketing should normally be for a minimum of two years. Therefore, marketing of the appeal building would need to continue until at least the end of December 2025 to satisfy this minimum period.
9. I note evidence from two commercial property companies with experience in the locality. The letter from Siddall Jones, dated May 2023, indicates that there is a lack of demand for first floor industrial spaces in the city centre. It considers that the same would be true for the appeal site due to issues relating to loading, access and parking. However this has not been adequately tested for the accommodation at the appeal site through marketing of that property for a minimum of two years. Similarly, a letter from Mason Young, dated March 2023, refers to marketing undertaken for two separate office properties in Hockley for which no offers or rental proposals were made. Nonetheless, insufficient details of those properties are before me to enable a meaningful comparison with the type of accommodation available at the appeal building.
10. The Council's Loss of industrial land to alternative uses: supplementary planning document (February 2006) (SPD) advises that flexibility for a change of use from industrial to residential is required to support regeneration initiatives. This applies where planning policy identifies the area has potential for alternative uses. Policy GA1.3 of the BDP seeks to strengthen the role of each of the distinctive quarters that surround the city centre core. The appeal site is within the Gun Quarter where Policy GA1.3 establishes the aim of maintaining the area's employment role and industrial activity. Although it supports a mix of uses around the canal, that is not relevant to location of the appeal site. Therefore I am not persuaded that the

flexibility envisaged in the SPD applies here. Furthermore, the SPD reiterates the need for active marketing of sites, with reference to a minimum of two years, where a lack of demand is submitted.

11. Consequently, it has not been demonstrated that the proposal would be acceptable having regard to the loss of industrial use. Thus, it would conflict with Policies TP20 and GA1.3 of the BDP.

Character and appearance

12. Insofar as it relates to this appeal, the significance of the Conservation Area as a whole is primarily derived from its concentration of historic workshops and manufactories associated with jewellery and metalware production. Although immediately outside the Conservation Area, the appeal site is in an area characterised by buildings of a similarly traditional form. There is considerable variation in building heights and roof design. This variety at roof level creates interest in the street scene.
13. No 21-23, like many other buildings in the locality, has windows on its uppermost storey that are smaller than those on its lower storeys. As such the second storey windows appear subservient and in keeping with the traditional hierarchy of window proportions here. Despite some unsympathetic alterations, it retains traditional features including arched windows and brick detailing. As such, the non-designated heritage asset makes a positive contribution to the character and appearance of the area and the setting of the Conservation Area. The two storey appeal building is described as an inter-war industrial building and occupies a prominent location on a corner plot. It has a dilapidated appearance due to the condition of its painted brickwork and render. Therefore it detracts somewhat from the setting of the Conservation Area and that of No 21-23.
14. The height of the proposed additional storey would not appear out of place on this corner plot, bringing it up to three storeys and to a similar height to many other buildings in the locality. Furthermore, the stepping in of the parapet wall on the front elevation to retain the cornicing near the eaves of No 21-23 would be acceptable, taking into account the juxtaposition of roof heights in the locality. In addition, the proposal involves the removal of features that currently detract from the appearance of both parts of the appeal building. This includes the removal of the yellow painted finish to the brickwork, removal of render and security shutters, as well as other external and internal repairs.
15. However, the windows on the proposed second storey would be noticeably larger than those at ground and first floor level. This would create a top heavy appearance. This would appear directly at odds with the traditional window hierarchy on the immediately adjacent appeal building. As such, it would result in harm to the setting of No 21-23. Moreover, this top heavy appearance would be readily visible from the surrounding area due to its prominent corner location and would be particularly noticeable when approaching the appeal site on Harford Street from the B4100.
16. To conclude, the removal of unsympathetic alterations to No 21-23 would improve its external appearance. Works of repair and restoration to the building as a whole are also welcomed. Nonetheless, this would be at the expense of the harmful and prominent design of the proposed second storey extension. Therefore, the proposal as a whole would result in harm to the character and appearance of

appeal building and surrounding area, having particular regard to the effect on the setting of the Conservation Area and No 21-23 as a non-designated heritage asset. It would thus conflict with Policies PG3 and TP12 of the Birmingham Development Plan 2017 which generally seek to ensure proposals respect the character and appearance of their surroundings, including with regard to heritage assets.

Other Matters and Planning Balance

17. A grade II listed building is located at Great Hampton Works, 170-174 Great Hampton Row (the listed building). I have therefore had special regard to the desirability of preserving the setting of the listed building as set out at Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the purposes of this appeal, its significance is primarily derived from its architectural qualities and historic association as a manufacturing complex. However, given the degree of separation between the listed building and the proposed additional storey, the appeal scheme would not harm the listed building's setting or the ability to appreciate its significance.
18. In light of the revised Framework, the Council has advised that it can demonstrate in excess of a five year supply of housing. Nonetheless, the proposal would make a small contribution to the Council's housing land supply position. Given the scale of the proposal this attracts modest weight. In addition, the proposal would make use of vacant floorspace in a sustainable location. However, in the absence of substantive evidence to the contrary, the proposal would conflict with the Council's development strategy of protecting employment land in an area where such uses are sought to be retained. Also, taken as a whole the submitted design would result in enduring harm to the character and appearance of the site and its surroundings.

Conclusion

19. Therefore, for the reasons given above, the proposal would conflict with the development plan as a whole, and there are no other considerations including the Framework that outweigh this conflict. The appeal should be dismissed.

Rachel Hall

INSPECTOR