
Appeal Decision

Site visit made on 11 March 2025

by **K Stephens BSc (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/G3110/W/24/3353243

The House, Wheatsheaf Yard, Blue Boar Street, Oxford OX1 4EE

- 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 Glen de Unger against the decision of Oxford City Council.
 - The application Ref is 24/00307/FUL.
 - The development proposed is to convert the first and second floors into four 1 bedroom Flats. This includes interior remodelling to the property on the first and second floors whilst retaining the bar on the ground floor. The provision of new internal bicycle storage and been included in the proposal.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2024. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that neither party would be prejudiced by my consideration of the revised Framework in reaching my decision.
3. The appeal site lies within Central Oxford Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. As part of their appeal, the appellant has submitted an Economic Viability Assessment and an additional Environmental Noise Assessment (ENA) that now covers a weekend period, which the previous Noise Impact Assessment did not.
5. The Procedural Guide: Planning appeals – England¹ states that the appeal process should not be used to evolve a scheme and that in general, appeals are determined on the same basis as the original application. Therefore, the appellant's submissions should not normally include new evidence or additional technical data not previously seen by the Local Planning Authority and interested parties at the application stage - the appellant may open themselves up to an award of costs if new evidence that could have been anticipated as being relevant to the assessment of the planning application is submitted with the appeal.
6. That said, it is not unreasonable for any party to seek to resolve a reason for refusal through the appeal process and to submit additional information to do so. The Council has had the opportunity to review the findings of both reports and

¹ Last updated 17 September 2024

comment on them but has chosen not to, believing they should have been submitted with the application. The documents should have been uploaded and made available on the Council's website for any interested parties to view. Therefore, I am inclined to accept both reports.

Main Issues

7. The main issues in this appeal are whether the proposed development would:
- Comply with local and national policies that seek to protect existing community facilities;
 - Provide acceptable living conditions for future residents in terms of internal layout and outlook;
 - Provide acceptable living conditions for future residents in terms of outside amenity space; and
 - Provide acceptable living conditions for future occupants with regard to the provision of refuse and waste facilities.

Reasons

Community Facilities

8. The appeal site is located in the centre of Oxford towards the end of Wheatsheaf Yard, a narrow passageway that links High Street with Blue Boar Street, a pedestrianised space with some outside seating areas for a number of surrounding pubs and bars. The appeal site comprises The House cocktail bar on the ground floor; an associated function/games room on the first floor; and an office, kitchens and toilets on the second floor.
9. The proposal would involve converting the first and second floors into 4 flats with associated internal and external works, including creating a new communal staircase entrance to the flats with bicycle and bin storage areas. The formation of the communal staircase to the flats and the installation of a new ground floor customer toilet would reduce the customer floor area for the ground floor bar.
10. Policy V6 of the Oxford Local Plan (the Local Plan) encourages provision of proposals that will add to the cultural and social scene of the city. It also resists the loss of public houses to another use. Applications must be accompanied by evidence to demonstrate that the continuation of the use of the premises as a public house is not viable and include evidence of reasonable efforts to market the premises for its existing use; reasonable efforts have been made to support and improve the operation and management of the business; and that suitable alternative public houses exist to meet the needs of the community.
11. Local Plan Policy V7 seeks to protect and retain existing cultural and community facilities and that planning permission will not be granted for development that results in the loss of such facilities unless new or improved facilities can be provided at an equally accessible location. The supporting text clearly states that public houses are a community facility. Local Plan Policy S1 is a broad brush policy that replicates the Framework's sustainable development principles

12. The proposal would not see the total loss of a public house because The House bar would remain on the ground floor albeit with a reduced customer floor area that would provide about 30-40 covers. The staircase and toilet at the far end of the building would be removed, and new double doors would be installed to provide improved access to the existing outside seating area in the pedestrian courtyard on Blue Boar Street, which would provide about 25 covers. The appellant's evidence suggests that the outdoor seating improvements and access to them through the venue itself, without having to go outside and round, would make the venue more attractive in this somewhat secluded, but easily accessible part of the city. As a result, this would potentially increase its trading opportunities such that the remaining ground floor bar would remain viable in the longer term. I have no reason to doubt this.
13. Nonetheless, the proposal would still see the loss of the first floor games/function room, which would be a loss of a cultural/social/community facility in Oxford city centre. On the first floor I saw there was a bar, some tables and chairs and a pool table, but the room was largely a long open space that could be flexibly used. Submitted evidence states that The House has been a well-known night time cultural destination in the historic Wheatsheaf/Bear Inn/The House 'triangle' in the centre of Oxford for many years and that the first floor is used to regularly host live DJs and musicians and can be rented out for private functions. Indeed I saw a sign pinned to a door downstairs saying the games room was closed for a private function. The first floor space also serves as additional seating for the bar below. The advertised opening hours at the premises were 5pm until midnight, and until 1am Thursday, Friday and Saturday evenings, and closed on Mondays. From the evidence and what I saw the first floor games/function room has the potential to offer a different facility/function space, either ancillary to The House, or as separate space, and thus contributes to the diversity of the social/cultural/community scene in Oxford.
14. The appellant refers to a number of venues in the city that offer private hire functions, such as The Lighthouse, the Varsity Club, and Slug and Lettuce, some of which are corporate chains. I have not been provided with any substantive evidence to indicate their location in relation to the appeal site. Nor is there sufficient evidence to demonstrate the nature of their offer would be similar to the one that would be lost - private functions is not the same as the venue hosting live music and DJ events, for example.
15. I appreciate that the entire premises would not be lost. However, there is no substantive evidence to demonstrate the contribution the games/function room has on the viability of the business, alone and cumulatively. I have not been presented with a substantive case that demonstrates that The House is experiencing financial difficulties and that the business as a whole would be at risk of total loss if the upper floors were not converted into flats and the appeal were to fail. Furthermore, there is nothing to suggest that the upper floors need to be converted into the number of flats proposed.
16. Part of the vibrancy and attraction of a town centre is the mixture of uses, often in close proximity to each other. However, the proposal would place residential flats directly above The House bar and its outdoor seating area, and adjacent to other bars/pubs along Wheatsheaf Yard and around Blue Boar Street. I saw some nearby flats, but these were above the hairdressers on Blue Boar, not directly above a late night pub/bar.

17. The introduction of a noise sensitive use to an area already experiencing noise, such as Blue Boar Street, runs the risk that some business operations may be jeopardised. The Framework advises that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
18. Internal acoustic insulation could be added to ceilings/floors and between the adjacent Wheatsheaf, but this would not overcome attendant noise and disturbance of the outdoor seating area directly below the proposed flats. Noise monitoring was undertaken during August between Thursday and Monday to include a weekend where noise levels are anticipated to be highest. Unsurprisingly, the ENA found the rear façade of the building overlooking the service yard facing the Town Hall was the quieter side, as it is farthest from Blue Boar Street and the outside seating area. All the flats would have their bedroom windows on this façade and noise levels were found to meet daytime and night time World Health Organisation (WHO) noise levels, provided windows are closed and background ventilation is supplied by trickle vents.
19. The ENA found that the living rooms of Flats 1 and 4 would meet daytime noise level guidance provided windows are closed and trickle ventilation used. A partially open window would mean desirable noise levels would not be achieved. The ENA considers windows would only need to be open for a 'ventilation purge' and that noise levels would only be noticeable with windows open when the outdoor seating area is at full capacity, considered most likely during peak operational times (Thursday to Saturday) during warm summer months. Outside of this scenario, open windows would be unlikely to cause an adverse impact to occupants. Nonetheless, if occupants wanted to open their windows, then noise would have an adverse impact on their living conditions, when the flats are relatively small and few other rooms to escape to.
20. Construction mitigation in the ENA Assessment suggests acoustic double glazing and acoustic trickle vents. The proposed plans show some new sash and casement windows on the west elevation (facing the back of the Town Hall) and these could be conditioned to be acoustic double glazed. On the elevation overlooking the outdoor seating area, two new large timber sash windows would be inserted into the living rooms of Flats 1 and 4, so it unclear whether this has been accounted for in the ENA. Furthermore, the existing bay window for Flat 1 and the side windows to the living space of Flats 1 and 4 are shown as existing and to remain, with no reference to the installation of acoustic double glazing, which may bring with it design issues.
21. Despite some limited mitigation measures, acceptable noise levels in the living areas of Flats 1 and 4 would be breached if windows are open, or outside Thursday to Saturday during warm summer months. Whilst there are nearby flats above a hairdressers this proposal would put flats directly above a late night pub/bar. I acknowledge that living in the Flats would be choice for those who chose to do so, but from the evidence of the popularity of the bar and this part of Oxford, and the alleged increased popularity the ground floor bar would have with its improved outside seating area, I find the proposal would likely lead to poor living conditions that could threaten the remaining ground floor bar business.
22. To conclude on this main issue, the proposal would see the loss of a cultural/social/community facility. I am not satisfied there are sufficiently suitable

and similar alternatives to fill the offer that would be lost. Whilst the remaining ground floor would apparently remain viable, there is no viability to demonstrate the existing games/function room is failing and that its loss is necessary. Resisting the loss of such facilities would also be in line with the Framework that seeks to ensure that policies provide the social, recreational and cultural facilities and services the community needs and guards against the unnecessary loss of valued facilities and services. Furthermore, converting the upper floors into residential flats directly above the premises and its outdoor seating area, which is intended to be improved and made more attractive, would likely jeopardise the remaining venue and those nearby too. The proposal would be contrary to Local Plan Policies S1, V6 and V7 whose aims are outlined above.

Living conditions – internal layout and outlook

23. Local Plan Policy H15 requires the internal layout of all new homes to comply with the government's space standards². For new one-person one-bedroom dwellings the gross internal floor (GIA) area should be a minimum of 37m² (based on a shower room instead of a bathroom). According to the annotated submitted floor plans, the flats would have GIAs ranging from 38m² to 43m² and so would comply with the space standards.
24. However, the GIA for Flats 1 and 4 includes a long corridor that extends from the flat's front door to the main living part of the flat. As the corridor is only as wide as the door and is a means of access to getting to the living areas, it would contribute little meaningful and useable space for furniture, storage or general circulation. The appellant's Architect's statement confirms that even if the corridors were excluded from the GIA calculations, Flats 1 and 4 would still comply with the space standards. I have no reason to conclude otherwise. Hence, from the evidence before me the internal space of each flat would comply with the government's space standards and accord with Policy H15 on this matter.
25. However, minimum sized internal layouts are not the only factor that create good quality living accommodation. Light and outlook are also relevant. Flats 2 and 3 would be created by partitioning up the first and second floors and new windows would be created in the existing blank side elevation of the building to provide all the openings for these two flats. All of these windows would look into the service yard that runs along the rear elevation of the building and the rear of the 3-4 storey Town Hall. Whilst the yard is a little wider than Wheatsheaf Yard it is still, nonetheless, enclosed by tall buildings and was somewhat gloomy. The new bedroom windows for Flats 2 and 3 would have vertical metal louvres installed over them. Due to the proximity of the Town Hall building across the service yard, these habitable rooms would have a very limited outlook and be particularly oppressive, almost prison like.
26. Both flats would also have a long open-plan kitchen/dining/living room. The windows that would be inserted for the kitchen areas would be narrow and high-level that would afford no views and limited light. The only other window that would be provided to this open-plan space would be a window at the end for the living area. The middle area of the open-plan room would have no outlook and only borrowed light from one main window and the high-level kitchen window. These factors would combine to create an oppressive outlook. I observed that the first

² Technical housing standards – nationally described space standard (DCLG March 2015)

floor games/function room, which has no room divides, was gloomy even with the 5 existing large windows facing towards Wheatsheaf Yard and the bay window at the end. To give Flats 2 and 3 fewer and smaller openings, with only views across a service yard towards the back of a tall building, would create units that would be gloomy with an unsatisfactory outlook. This would create an unduly oppressive living environment for future occupiers and harm their living conditions.

27. Flats 1 and 4 would be brighter with the borrowed light from the corridor windows. The open-plan living spaces to these two flats would have a squarer footprint with comparatively big windows that would overlook Blue Boar Street and the pedestrianised courtyard spaces below with trees. Hence Flats 1 and 4 would have a better outlook from their main living space than Flats 2 and 3. Although their bedrooms would be smaller, they would have a greater proportion of light despite the limited outlook and hence would be less oppressive than the bedrooms in Flats 2 and 3. Plus occupants would have a better outlook from their main living area to help compensate.
28. Whilst the size of each flat would comply with the government's space standards, and the flats are located in a sustainable location in the centre of the city, the outlook for Flats 2 and 3 in particular, and the bedrooms for Flats 1 and 4, would create an unduly oppressive living environment that would harm the living conditions of future occupiers. Overall, the proposal would not create good quality living accommodation and would therefore not accord with the requirements of Local Plan Policy H15.
29. I accept that future residents would make a choice whether to live there or not. I also accept that by their nature urban areas are generally higher density. With increasing pressures to provide more homes and make more efficient use of land and building, the outlook from some living accommodation can be limited or compromised as properties tend to be closer together. I have no reason to doubt that the build-quality and fit out of each of the proposed flats would not be to a high standard. However, this does not mitigate against the lack of a basic decent outlook.
30. I am advised that the proposed windows in the currently blank elevations facing the Town Wall would over sail land not in the appellant's ownership. This raises doubts as to what means of illumination/ventilation could in fact be provided, but this would be a civil matter.
31. My attention has also been drawn to a number of residential flats converted above existing commercial properties and other public houses/bars in the vicinity of the appeal site that have a limited outlook. The Council advises that some of these flats have larger internal layouts and some have outside private amenity space that helps offset the lack of outlook and some were approved under a different policy context. Whilst there may be similarities and differences between nearby flats, I must determine the appeal proposal on its own merits and site specifics.

Outdoor amenity space

32. Local Plan Policy H16 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. It stipulates that 1 or 2 bedroom flats should provide a private balcony or terrace of useable level space, or direct access to a private or shared garden. However, designing dedicated outdoor private space for new buildings can be easier than

dealing with the conversion of existing buildings, as the building of terraces and balconies is not always possible.

33. The proposed flats would be in a landlocked building with narrow alleyways either side and no private surrounding outdoor space that could be used or shared by residents. Flat 4 shows a door being created above the first floor bay window. However, the plans do not show any balustrading around the space and from what I saw on my visit I have doubts as to the size, usability and safety of using the roof of the bay window below as meaningful private outdoor space.
34. The policy refers to adopting a flexible approach when assessing the location and context of the development. It is not uncommon for flats in the centre of towns and cities to not have direct access to private outdoor space, particularly those created by the conversion of existing buildings, rather than new-builds and I understand that there are other flat conversions that have been allowed without private amenity.
35. There are a number of public green spaces in Oxford a short walk away, such as Christ Church Meadow and the footpath along the River Thames. However, the resulting poor outlook for future occupiers of some of the proposed flats coupled with the lack of access to some form of private outdoor amenity would worsen the quality of the living accommodation for their occupants, particularly when the outlook from every window is of a tall brick wall across a service yard.
36. Therefore whilst I find the lack of private amenity space is not itself an issue in this city centre location, it is when coupled with the oppressive living environments of some of the flats. The effect would be to further harm living conditions of future occupiers. According, the proposal would conflict with Local Plan Policies H16, DH1 and RE2 that collectively seek, amongst other things, to ensure that high quality development is delivered even when taking account of the need to make the most efficient use of land.

Refuse storage

37. The residents of the 4 flats would have access to a communal bin store on the ground floor accessed off Wheatsheaf Yard beside the proposed entrance door to the flats. The appellant has confirmed The House bar currently utilises a bin storage area on the opposite side of Wheatsheaf Yard to the rear of 7-9 Blue Boar Street under an existing arrangement - plans have been submitted to show this. Therefore the proposed bin store would be shared by the 4 flats – not with The House bar.
38. The bin store would accommodate two 770 litre waste bins and a food bin. The Council's refuse department makes no objection to the amount or location of refuse bin provision, which indicates to me that the overall provision is adequate for the proposal. The appellant draws my attention to the fact that the proposed bin storage arrangements would be similar to a scheme approved for the residential conversion of 7-9 Blue Boar Street and 12 & 129 High Street in Wheatsheaf Yard.
39. It is not uncommon for refuse collections to cause some short-term inconvenience to users of routeways in the vicinity, and Wheatsheaf Yard already has other bin storage areas. The proposed bin store would be of a similar design and in a similar location to the one on the opposite side of the Yard. The storage area would be

secure and screened from view so as not to detract from the appearance or visual amenity of the area.

40. In the absence of any evidence to the contrary, I am satisfied that there would be adequate provision for the storage of waste for future residents of the four flats. Accordingly the proposal would not conflict with Local Plan Policy DH7, which seeks to ensure there is adequate and well placed space for refuse bins and that their provision does not detract from the appearance or amenity of the street.

Other Matters

41. I saw that the CA comprised a variety of period properties displaying a mix of designs, sizes, ages and uses. The Wheatsheaf is an old hostelry in the city, and Wheatsheaf Yard is an old passageway. I consider the character and appearance of the CA, and thus the special interest and significance, are in part derived from the architectural richness and variety of its historic buildings and legible street patterns that reflect the economic and social development and growth of the city over time. Whilst I understand parts of the appeal building and the area has undergone some rebuilding over the years, it is still an integral component of the historic townscape and the building still positively contributes to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.
42. There are residential flats above a number of ground floor uses throughout the city, such that the cheek-by-jowl nature of different uses contribute to the vibrancy and character of the city centre and the CA. The proposed external changes are limited to the insertion of some new windows and doors and a residential use is not uncommon in a town centre. Consequently, I am satisfied the character and appearance of the CA would be preserved, and the significance of the CA would not be harmed. The Council has raised no concerns in this regard.

Conclusion

43. In conclusion, the proposal would result in the loss of a social/cultural/community space. The proposed flats would have a poor outlook and whilst the lack of outdoor amenity space is not itself determinative, it compounds the poor quality living accommodation for future occupiers living above a bar/pub with outdoor seating area directly below.
44. The internal layout of the flats would comply with the government's space standards and there would be adequate refuse storage. However, these matters do not outweigh the harms I have identified.
45. Overall, the proposed development would conflict with the development plan and there are no material considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

K Stephens
INSPECTOR