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# Appeal Decision

Site visit made on 21 March 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19<sup>th</sup> April 2017**

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**Appeal Ref: APP/B5480/W/16/3159641**  
**25-29 Market Place, Romford RM1 3AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Newriver Retail (Portfolio No. 2) Ltd against the decision of the Council of the London Borough of Havering.
  - The application Ref P0489.16, dated 24 March 2016, was refused by notice dated 6 September 2016.
  - The development proposed is described as part change of use and conversion of ground, first and second floor retail floorspace and third floor extension to accommodate an 85 bedroom hotel including restaurant; elevational changes (note: ground floor retail to be retained).
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## Decision

1. The appeal is allowed and planning permission is granted for part change of use and conversion of ground, first and second floor retail floorspace; third floor extension; and elevational changes to accommodate an 85 bedroom hotel including restaurant at 25-29 Market Place, Romford RM1 3AB in accordance with the terms of the application, Ref P0489.16, dated 24 March 2016, subject to the attached schedule of conditions.

## Procedural Matter

2. The Council changed the description of the development from that provided on the application form to 'Part change of use and conversion of ground, first and second floor retail floorspace; third floor extension; and elevational changes to accommodate an 85 bedroom hotel including restaurant'. This is a more accurate description of the proposed development which I have used in the determination of this appeal.

## Main Issues

3. The main issues are:
    - Whether the proposed development would preserve or enhance the character and appearance of the Romford Conservation Area.
    - The effect of the proposed development on highway and pedestrian safety and the free flow of traffic with particular regard to the drop-off and servicing arrangements.
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## Reasons

### *Character and appearance*

4. The appeal property comprises a predominantly three storey former department store constructed in the 1960's and located on a prominent corner position at the junction of Market Place with Market Link and extends to Ducking Stool Court. The corner elevation facing Market Place is clad in ceramic tiling with narrow window openings. The remainder of the building is constructed in red brick with the Market Link elevation also having narrow window openings. As such the existing building has a relatively bland and bulky appearance.
5. The ground floor of the building is in retail use with the upper floors vacant. Immediately adjacent is a four storey building comprising ground floor retail units (the Romford Shopping Mall) with residential uses on the upper floors. On the opposite side of Market Place is a three storey concrete framed department store building and on the opposite side of Market Link are two and three storey commercial units (15-17 Market Place) next to which is the St Edward the Confessor Church (Grade II\* Listed).
6. Ducking Stool Court, to the rear provides servicing access to the appeal property and Romford Shopping Mall as well as access to a multi storey car park (three storeys). A five storey apartment block (Hazeleigh House) is located on the opposite side of Ducking Stool Court. Overall, the buildings in the vicinity are an eclectic mix of architectural styles, building heights, materials and construction ages with no dominant design character.
7. The Market Place elevation forms the boundary of the Romford Conservation Area. The Council's Character Appraisal and Management Proposals for the Conservation Area note that most of the later 20<sup>th</sup> century buildings, including the appeal site, are a mix of bland frontages alongside Edwardian facades and 1930's buildings. The current dominant bland facades of the appeal building provide it with a bulky appearance that does not make a positive contribution to the local environment.
8. The proposed development would involve the construction of a third floor which would be a lightweight metal clad attic storey set slightly back from the Market Link elevation. The existing ceramic clad corner façade to Market Place and the elevations of the proposed third floor in this location would be overclad with a metallic effect cladding with a colour palette that would complement the St Edward the Confessor Church. The window openings to the Market Place and Market Link elevations would be enlarged.
9. The current retail use of the ground floor would remain with the upper floors, including the proposed third floor, proposed to be used as an 85 bedroom hotel with the entrance lobby at ground floor level on the Market Link elevation.
10. The proposed elevational changes would improve the appearance of the building by its reversion to a more traditional fenestration format. This would provide more interest to the current façade and reduce the solid to void ratio that current comprises a significant extent of blank and bland brickwork and cladding. These improvements, together with the provision of a more external subtle cladding, would reduce the scale and bulk that the current building

- displays and provide a more traditional façade that has a positive effect on its appearance in the surrounding townscape.
11. The provision of the additional floor would provide the building with a more integrated appearance with the adjoining four storey building comprising the Romford Shopping Mall. By reducing the mass of the blind gable of the Mall, that is visible in views looking east along Market Place, it would provide greater consistency in horizontal building lines and result in a building that is more coherent to the height and scale of its immediate building group.
  12. Although the extended building would be higher than the units at Nos 15-17 Market Place, given the considerable variations of building heights in the vicinity, it would not appear out of scale nor have an unacceptable dominant relationship with these properties. In its setting the appeal building can accommodate an additional storey without appearing excessively high or dominant and as such would not cause any material harm to the character of this part of the Conservation Area. Overall, the proposed development would considerably improve the appearance of the building by redressing the current bland design and would enhance the contribution that it makes to the townscape.
  13. Although not cited as a reason for the refusal of planning permission, the Council's statement refers to the impact of the proposed development on the setting of the St Edward the Confessor Church and that of the Church House. I have therefore had regard to the statutory duty to pay special attention to the consideration of the impact of the proposed development on the setting of the designated heritage assets.
  14. Whilst the existing building is visible in shared views with the Church it is not part of its historic setting and is one of several relatively modern additions to the retail townscape that have a markedly contrasting form and architectural style to the listed buildings. Owing to the position of intervening buildings and the distance from the church, the current building does not contribute to the significance of the listed buildings as part of their setting. The proposed development does not materially change this relationship and would result in a positive effect on the townscape in which the listed buildings are experienced. As such there would be no detrimental effect on the setting of the listed buildings. I also note that Historic England did not wish to offer any comments on the proposed development.
  15. For these reasons, the proposed development would enhance the character and appearance of the Romford Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the National Planning Policy Framework (the Framework). As a result there would be no conflict with Policies CP17, CP18, DC61, DC67 and DC68 of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (DPD). These policies, amongst other things, require that new development maintains or improves the character and appearance of the local area, does not adversely effect the setting of listed buildings and that planning permission for development within conservation areas will only be granted where it preserves or enhances the character and appearance of the conservation area.
  16. In addition, there would be no conflict with Policies 7.4, 7.6 and 7.8 of the London Plan (Consolidated with alterations since 2011) 2015 (the London

Plan). These policies, amongst other things, require that development should make a positive contribution to the character of a place, conserve the significance of heritage assets and relate well to the form, proportion, composition, scale and character of surrounding buildings.

*Highway and pedestrian safety – drop-off arrangements*

17. The proposed development does not make any provision for a designated drop-off facility but both of the main parties accept that guests would likely be dropped off on Market Link close to the hotel entrance. This part of Market Link is subject to part time waiting and loading restrictions that permit short term stopping to allow passengers to board or alight.
18. The site is located within 650m of the Railway Station, close to bus stops on the A118 St Edwards Way and very close to ample public car parking on the Market Place and in the Multi-Storey Car Park to the rear. The area has a Public Transport Accessibility Level (PTAL) of 6a which identifies that it is located in a highly accessible location.
19. The appellant indicates that the average length stay for the identified hotel chain is 1.3 days and I have no evidence to suggest that this figure may be incorrect. As such guests are likely to arrive with a small amount of luggage.
20. The appellant also suggests that the hotel would likely have a low drop-off and collection activity with 25 per day spread over a 16 hour period in any one day with full utilisation of the hotel. Such drop-off or passenger pick-up events would likely last two minutes. Given the proximity of the building to car parks and the accessibility of public transport, the appellant's suggested drop-off and collection figures appear reasonable and I have no evidence to indicate otherwise.
21. Market Link in the vicinity of the proposed entrance is relatively straight, flat and wide and can comfortably accommodate two-way traffic. I observed on a non-market day that vehicles appear to travel at low speed in this area due to the proximity of the junctions with Market Place and Ducking Stoll Court and the road was lightly trafficked. I also observed that a low number of drop-offs already occur in this area without any visible evidence of a highway or pedestrian safety problem. Vehicles, dropping off appear to proceed to Market Place, turn on Market Link or manoeuvre into Ducking Stool Court. None of these movements appear to cause any demonstrable highway safety problems.
22. Although, a vehicle stopping to drop off and collect passengers would cause a short term interruption to traffic flow, given the relatively low frequency of the event and its short duration, the slow speed of vehicles and the width of the road, this would unlikely cause a highway or pedestrian safety problem nor disrupt traffic flows to the extent that the function of the highway is compromised. The pedestrian footway in the vicinity of the proposed hotel entrance is relatively wide, level and has a good surface. As such it appears to be adequate for use by passengers egressing or accessing vehicles, including those with mobility needs. I also note that the Council's Highway Engineer in the response on behalf of the Highway Authority did not raise any concerns regarding the lack of a formal drop-off facility.
23. On days when the market is trading, access along Market Link is restricted and a temporary barrier is placed on both sides of the road immediately to the

south of the junction of Market Link with Ducking Stool Court. This would restrict access to the proposed hotel entrance area. Equally, if a drop-off facility were to be provided the position of the barriers would restrict access to that also.

24. I agree with the appellant that there appears to be no reason as to why the barriers could not be located further south along Market Place to provide access for a vehicle to drop-off or collect passengers. Even if the barriers were to remain in their current position and drop-offs occurred on Market Link to the north of the building, for the reasons identified above, I do not consider that this would give rise to highway and pedestrian safety issues. In addition, given the relatively short distance to the proposed hotel entrance there would unlikely be any unacceptable accessibility problems of an extent to warrant the dismissal of this appeal.
25. Taking the above factors into account I do not consider that the lack of a drop-off facility would give rise to any highway or pedestrian safety concerns of an extent to warrant the dismissal of this appeal nor would cause an unacceptable effect on the free flow of traffic. As such, there would be no conflict with Policies DC32, DC33 and DC61 of the DPD or Policies 6.3 and 6.13 of the London Plan. These policies, amongst other things, require new development to be orientated around the needs of pedestrians and not to cause any adverse impact on the function of the road hierarchy.
26. Although the Council has referred to a conflict with Policy 6.1 of the London Plan this is a strategic policy relating to the integration of transport and development and its provisions appear to have little, if any, relevance to the circumstances in this appeal. Consequently, I have attached minimal weight to the provisions of this policy.

*Highway and pedestrian safety – servicing arrangements*

27. Both main parties suggest that the proposed hotel use would likely generate approximately 15 service vehicles per week utilising the current servicing area to the rear of the building. This also serves the current retail use which generates approximately 14 vehicle movements per week. The appellant indicates that the former retail use of the department store generated approximately 28 vehicular movements per week and as such there is little change in the proposed frequency from that associated with the historic use as a multi-level department store.
28. Although the western part of Ducking Stool Court is a public highway, the eastern area to the rear of the Romford Shopping Mall is private. As such existing servicing vehicles either reverse into or out of Ducking Stool Court from, or on to, Market Link. These same manoeuvres are proposed in the servicing arrangements for the intended use.
29. There is no material difference between the proposed serving arrangements and those that currently occur and have historically occurred. Given the limited extent of the public highway on Ducking Stool Court, it appears that whatever commercial use that the building may have would likely entail the same serving arrangements involving the reversing of vehicles.
30. I concur with the appellant that such vehicle manoeuvres are not uncommon nor unpredictable at the site and that there has been no recorded accidents

associated with goods vehicles undertaking reversing movements. I also note that the highway authority raised no objection to the proposed servicing arrangements subject to a financial contribution by means of a planning obligation towards localised dropped kerb improvements, the provision of a loading bay in Ducking Stool Court and associated local rationalisation of traffic regulation orders.

31. The provision of a service bay and the suggested improvement to a misaligned crossing at Ducking Stool Court would improve pedestrian safety in the vicinity of the servicing area. This would enable a designated point of loading/unloading to be defined and remedy a misalignment in the current pedestrian crossing to ensure that pedestrians are directed to defined crossing points on Ducking Stool Court away from the servicing area. As such, these improvements are reasonably necessary to make the development acceptable in planning terms and are directly related to the development.
32. The junction of Ducking Stool Court with Market Link is relatively wide with adequate opportunity for vehicle and pedestrian indivisibility. For the reasons identified above, vehicles travelling in the vicinity of the junction do so at slow speed as such there would be adequate time for vehicles travelling in the vicinity of a reversing service vehicle to respond and take appropriate action.
33. The proposed development does not fundamentally change the current servicing arrangements nor result in any significant increase in vehicular movements beyond those that previously occurred. These factors, together with the lack of any recorded accidents associated with servicing vehicles and the views of the highway authority, lead me to conclude that there is no demonstrable evidence to suggest that the proposed development would give rise to hazardous highway and pedestrian safety.
34. I therefore conclude that the proposed development would not have an unacceptable effect on highway and pedestrian safety as a consequence of the proposed servicing arrangements. As such there would be no conflict with Policies DC32, DC36 and DC61 of the DPD or Policy 6.1 6.3 of the London Plan. These policies, amongst other things, require that new developments should not cause an unacceptable road hazard or adversely effect pedestrian safety.
35. Although the Council has also referred to a conflict with Policy 6.1 of the London Plan, for the reasons identified above the provisions of this strategic policy has little, if any, relevance to the issues in this appeal. As such, I have attached minimal weight to its provisions.

### **Unilateral Undertaking**

36. The appellant has provided a signed Unilateral Undertaking (UU) dated 21 December 2016. This provides for development not to commence until a financial contribution has been made to the provision of local pedestrian dropped kerb improvements and the provision of a loading bay in Ducking Stool Court.
37. For any weight to be given to this the provisions need to be in accordance with the tests set out in paragraph 204 of the National Planning Policy Framework (the Framework). I consider that covenants contained within the UU relate to highway matters that are directly related to the development and are necessary to make the development acceptable in planning terms, particularly

given their relevance to highway and pedestrian safety. Consequently I find that the UU would meet the tests in the Framework.

38. Whilst the Council considers the provisions of the UU to be acceptable, it has expressed concerns that the Council's legal costs in this matter would normally be reflected in the deed together with a monitoring fee. These are absent in the submitted UU. However, the Council do indicate that as the deed has already been completed the payment could be requested without the need for adjustment if there is not enough time for this.
39. I have taken into account the concerns of the Council. Whilst the UU may not be in exactly the format required by the Council, I am obliged to consider it in the form it was submitted. On balance, I consider that the Unilateral Undertaking would meet the necessary tests and is sufficiently robust to be considered enforceable. I agree that the legal costs could be requested without need for adjustment of the agreement as the Council suggest. I also see no reason why the suggested monitoring fee of £300 could not be similarly dealt with.

### **Conditions**

40. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and to minimise the use of pre-commencement conditions and eliminated one for the reasons set out below.
41. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used.
42. Given the proximity of the proposed hotel to residential development, conditions are necessary relating to sound insulation and prescribing noise limits for plant and machinery. Given the town centre location of the development and its proximity to residential properties I agree that a condition requiring the submission of an Air Quality Assessment and identifying measures to mitigate the impact of the development on air quality is necessary.
43. As there is a likelihood of food preparation and cooking occurring at the hotel, I agree that a condition requiring the control of odours is necessary given its location close to existing residential development.
44. The proposed use is likely to place different demands on the foul and surface water drainage system than the existing use. Given that the detailed works necessary to install a satisfactory drainage system require to be established before the internal reconfiguration of the building occurs I agree that a condition is necessary requiring the submission of a drainage scheme. However, I have amended the Council's suggested condition to enable external works to the façade of the building, which would otherwise not compromise the provision of drainage facilities, to be undertaken in advance of the scheme being agreed.

45. Given the proposed nature of the use and occupation of the building, I agree that a scheme that identifies how the principles of Secured by Design are to be implemented is necessary. However, I have also amended the suggested condition to require any measures to be implemented before the occupation and use of the building.
46. In order to protect the character and appearance of the area and preventing any loss of privacy to nearby residential properties, a condition is necessary to prevent the installation of further openings or windows. To protect the living conditions of the occupants of nearby residential properties and condition is also necessary to restrict working hours.
47. Given the nature and extent of the works proposed to the building and its proximity to neighbouring properties, the submission of a Construction Method Statement is necessary. In order to protect the living conditions of the occupants of nearby properties I agree that the submission of such scheme needs to be secured prior to the commencement of the development.
48. Although the Council has suggested a condition that limits the use of the building to that specified within the application, such condition is not necessary as the intended use is implicit in the development hereby permitted and any subsequent changes of use will be subject to the provisions the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended). As such, any subsequent changes of use would be considered pursuant to the provisions of such Orders and therefore I have deleted the suggested condition.

### **Conclusion**

49. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

## CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Existing Elevation Sheet 2 - Drawing No. 3821-126;
  - Existing Elevations Sheet 1 - Drawing No. 3821-125;
  - Existing First Floor Plan - Drawing No. 3821-121;
  - Existing Ground Floor Plan - Drawing No. 3821-120;
  - Existing Second Floor Plan - Drawing No. 3821-122;
  - Existing Third Floor Plan - Drawing No. 3821-123;
  - Proposed Elevations Sheet 1 - Drawing No. 3821-135;
  - Proposed Elevations Sheet 2 - Drawing No. 3821-136;
  - Proposed First Floor - Drawing No. 3821-131;
  - Proposed Ground Floor - Drawing No. 3821-130;
  - Proposed Roof Plan - Drawing No. 3821-134;
  - Proposed Second Floor - Drawing No. 3821-132;
  - Proposed Sections A-A & B-B - Drawing No. 3821-137;
  - Proposed Third Floor - Drawing No. 3821-133;
  - Roof Survey - Drawing No. 3821-124;
  - Site Location Plan - Drawing No. 3821-100;
  - Site Plan - Drawing No. 3821-110.
- 3) No development involving works to the external elevations of the building shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) The building shall be constructed so as to provide sound insulation of 43 DnT, w + Ctr dB (minimum value) against airborne noise and 64 L'nT, wdB (maximum value) against impact noise.
- 5) Occupation of the building subject to the permission hereby permitted or use commenced shall not occur until a scheme for any new plant or machinery is submitted to and approved in writing by the Local Planning Authority to achieve the following standard - Noise levels expressed as the equivalent continuous sound level LAeq (1 hour) when calculated at the boundary with the nearest noise sensitive property shall not exceed LA90 -10dB. Plant and machinery shall be maintained thereafter in accordance with the approved scheme.
- 6) No works shall take place in relation to any of the development hereby approved until an Air Quality Assessment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall detail how the development may impact upon local air quality, model the future impact, identify mitigation measures, provide full details of measures that will be implemented (or continue to be implemented) to protect both the internal air quality of the building and ensure that there is no adverse impact on air quality in the vicinity of the development. The use hereby permitted shall not commence until all measures identified in the Air Quality Assessment have been implemented.

- 7) Before the use hereby permitted commences suitable equipment to remove and/or disperse odours and odorous material should be fitted to the extract ventilation system in accordance with a scheme to be designed and certified by a competent engineer and after installation a certificate shall be submitted to the Local Planning Authority that identifies that the system has been properly installed. Thereafter, the equipment shall be properly maintained and operated within design specifications.
- 8) No works, other than those to the external façade of the building, shall take place until details of surface and foul water drainage works have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 9) No occupation of the building subject to the permission hereby permitted or the use commenced shall occur until a scheme/details of how principles and practices of the Secured by Design award scheme are proposed to be adopted within the development. The scheme shall include, but not be limited to, details on proposed site security measures including CCTV cameras and shall be submitted to the Local Planning Authority for approval in writing. The development shall be implemented in accordance with the approved details.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no window or other opening (other than those shown on the submitted and approved plan) shall be formed in the flank walls of the building, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.
- 11) All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.
- 12) No works shall take place in relation to any of the development hereby approved until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers is submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include details of:
  - a) parking of vehicles of site personnel and visitors;
  - b) storage of plant and materials;
  - c) dust management controls;
  - d) measures for minimising the impact of noise and ,if appropriate, vibration arising from construction activities;

- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authorities;
- g) siting and design of temporary buildings;
- h) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- i) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

The development shall be carried out in accordance with the approved statement.