



Appeal Decisions

Inquiry held on 11 December 2012, 8-11 January 2013 and 28 January 2013
Site visit made on 11 January 2013

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 26 March 2013

Appeal A Ref: APP/Z0116/E/12/2180890

44 Whiteladies Road, Clifton, Bristol BS8 2NH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Medinbrand against the decision of Bristol City Council.
 - The application Ref 12/00068/LA, dated 5 January 2012, was refused by notice dated 25 July 2012.
 - The works proposed are alterations and extension to allow partial conversion of existing building to form 5 additional flats and retain auditorium.
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Appeal B Ref: APP/Z0116/A/12/2180898

44 Whiteladies Road, Clifton, Bristol BS8 2NH

- 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 Medinbrand against the decision of Bristol City Council.
 - The application Ref 12/00067/F, dated 5 January 2012, was refused by notice dated 25 July 2012.
 - The development proposed is alterations and extension to allow partial conversion of existing building to form 5 additional flats and retain auditorium.
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Decisions

1. I dismiss the appeals.

Application for costs

2. At the inquiry an application for costs was made by Medinbrand against Bristol City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on the special architectural and historic interest of the listed building, whether the proposal would preserve or enhance the character or appearance of the Whiteladies Road Conservation Area, the effect on the significance of the listed building and the Conservation Area as heritage assets, and whether any harm caused is outweighed by any public benefits.

Reasons

Effect on the heritage assets

4. The Whiteladies Picture House is a grade II listed building located within the Whiteladies Road Conservation Area. It has been vacant since the cinema

closed in 2001 and has been on the Buildings at Risk Register since 2003. Proposed is the conversion of part of the building to create a total of 6 flats, with the auditorium retained in D2 use as a gym. The proposal would also include repairs and restoration works to the fabric of the building to recover and reinstate detailing such as decorative plaster and render.

5. The cinema comprises 2 building phases, the 1st being the erection in the late 19th century of a housing terrace. These were later incorporated into the cinema designs of La Trobe and Weston in the 1920s. The overall design although eclectic, has a strong sense of the "Art Nouveau" particularly in its external elevations onto Whiteladies Road and Melrose Place. The building has undergone alterations, most notably when it was subdivided to create a 3 screen cinema, works that were subsequently removed. Works also recently occurred within the foyer.
6. Nevertheless, the building retains large elements of its original design such as decorative plasterwork and glass, marble stairs and columns, limestone ashlar and moulded render. Of particular significance to the building's special architectural and historical interest, and the character and appearance of the conservation area, are the corner tower and the Melrose Place façade. The tower in particular creates a striking entrance feature and is a very prominent local landmark. Internally, it is the volume of the auditorium space along with the surviving detailing that makes a strong contribution to the building's architectural and historic interest.
7. It is proposed to re-introduce a degree of sub division to the auditorium, through level floors and a balcony, in order to accommodate the gym and to remove the seating. While the use does not require planning permission as it is a permitted change within the same use class (D2) for the purposes of the Town and Country Planning (Use Classes) Order 1987 as amended, the proposed works to bring about the gym use require listed building consent. In my judgement, these would serve to recover a significant portion of the fabric that gives this space its character, albeit partially hidden beneath proposed suspended ceilings and raised floor levels.
8. I note the concerns that the works would harm the perception of the space as an area that accommodated mass public entertainment and that fewer people would be able to experience it. However, it would still be possible to appreciate the volume of the space from within the gym and the works would be such that they would be capable of being reversed at a later date should the use of the auditorium change, leaving behind the restored historic fabric.
9. Furthermore, a cinema like a gym, is open to those who wish to pay an entrance/membership fee and I note the appellant's offer of public open days to the building that could be secured by a suitably worded condition, were the proposal to be granted listed building consent. Similarly, the details of how the fabric of the auditorium (along with the foyer and external elevations) would be re-instated and restored could be made the subject of conditions as suggested by the appellant. In which case, I consider the works to the auditorium would not be harmful to the significance of the heritage asset.
10. Turning to consider the alterations to form the flats, this would involve the conversion of the former ballroom and office accommodation along with a 2 storey extension above the flat roofed terraces to the upper levels of the Whiteladies Road and Melrose Place elevations. The extension would be fully

glazed with a convex roof stepping out at both levels which would sweep across the angle, obscuring the roof of the Dutch gable. While noting the reference in the report to the Planning Committee that English Heritage supported the approach to the extension, in my judgement, it would introduce a strident, alien feature that would detract from the architectural integrity of the original design. As conceived, the design involved the tower rising above the ground floor as a stand alone feature. The extension, although proposed to be set-back and constructed of lightweight materials, would nonetheless bring the built development much closer to the setting of the tower and this would not be ameliorated by any reflective qualities the proposed glazing might possess.

11. Moreover, the domestic elements that would be likely to accompany the extension such as curtains, blinds and furniture along with internal lighting in the evenings would dramatically alter the backdrop to the tower, when seen from street level. If tinted glass was used in order to mask the domestic use behind, the solid effect of such a feature would exacerbate the feeling of development around the tower. As such, the extension would create a very different dynamic to these facades and the environs of the tower, to the extent that the significance of the original design would be compromised, and the tower would become less of a feature on the building and within the conservation area.
12. Furthermore, the subdivision of the ballroom and the ancillary rooms together with the extension to form the residential accommodation would obscure and confuse the building's original plan form. The layout and arrangement of these spaces are redolent of the historic origins and function of this part of the cinema. This important element of the building's special interest would be harmed by the proposal.
13. It has been pointed out that the principle of residential use must be acceptable given the residential character of the area, the 1st phase of building on the site and the presence of a flat within the cinema. Be that as it may, decision makers in determining applications, under paragraph 131 of the National Planning Policy Framework (the Framework) should take account of; the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness. In my judgement, the proposed 2 storey extension, as new development within the Conservation Area, would have a discordant appearance that would fail to enhance or better reveal the significance of the heritage asset and would detract from local character and distinctiveness.
14. Against this background and notwithstanding the officer recommendation to approve the proposal, the positive consultation responses from the Conservation Advisory Panel and the Bristol Civic Society, and the recommendation from English Heritage that the Council should determine the applications in accordance with national and local guidance, and on the basis of your its conservation guidance, I consider that there would be harm arising from the scheme to both the listed building and the Conservation Area. In this regard, I agree with the officer who concluded in the report to Committee that the degree of harm would be less than substantial and requires to be weighed

against any public benefits of the proposal, including securing the building's optimum viable use.

Public benefits and optimum viable use

15. Several public benefits are claimed for the proposal including restoration works such as the repair of render and decorative features on Melrose Place, reinstatement of decorative internal plasterwork and pilasters to the foyer, consolidation of stonework to the tower, ensuring alterations are reversible and could be removed at a later date, and the enhancement of the setting of the tower. Additional regeneration benefits such as supporting 30 full time equivalent jobs, bringing back into use a long term vacant building at risk, creating an active mixed use that would benefit the vitality and viability of the area, and improving the health of locals are also claimed. In this regard it is argued that the proposal accords with paragraph 7 of the Framework.
16. Nevertheless, it has not been demonstrated that the repair and restoration of the fabric could only be achieved by means of this proposal. As a listed building the owner has a duty to ensure its repair and the Council has statutory powers to enforce this. The removal of the building from the Buildings at Risk Register could be achieved at any time with the carrying out of straight-forward, routine maintenance and is not dependant on the approval of this proposal. As for economic and health benefits, the gym use would attract footfall to the area and users would no doubt improve their fitness levels but I have no compelling evidence before me to demonstrate that the gym use which would create the jobs is dependant on permission being granted for the residential element of the scheme. With regard to the tower's setting, the claimed enhancement to its appearance stems from the removal of a number of elements relating to the cinema use of the building which I consider form part of the visual document of the building's history.
17. I have already stated that I consider the gym use alterations to be reversible but I cannot reach the same conclusion regarding the flats. While it is possible that commercial users of the auditorium could come and go, carrying out their own reversible alterations as each change occurs (including potentially back to a cinema), I consider it unlikely that once established, the residential element would revert back to a commercial use thereby removing the domestic accretions.
18. While it is the case that the building has been vacant for a considerable period of time there has been interest shown in bringing it back into use as evidenced by the planning history. Furthermore, although no concrete proposals came forward, and notwithstanding the appellant's claim that large space users such as a theatre, church, cinema and retail are not viable, the marketing exercise demonstrated that there is interest from potential owners/tenants for uses other than a mixed gym/residential use. In which case, from the evidence, it has not been demonstrated that this proposal, involving a gym use allied with a residential conversion is the only means for securing the optimum viable use for the listed building.
19. As heritage assets are irreplaceable, any harm requires clear and convincing justification. Such justification has not been demonstrated in this instance. Accordingly, taking account of the Practice Guide to Planning Policy Statement 5; *Planning for the Historic Environment* which remains relevant guidance insofar as it is consistent with the Framework, the proposal would fail to

preserve the special architectural and historic interest of the listed building, and would not preserve or enhance the character or appearance of the Conservation Area. The less than substantial harm to these heritage assets would not be outweighed by any public benefits. As such, the proposal would be contrary to the provisions of paragraphs 131 and 133 of the Framework, policies BCS 21, BCS 22 of the adopted Bristol Development Framework Core Strategy and saved policies B5, B6 and B17 of the adopted Bristol Local Plan.

Other matters

20. Concern was raised that noise from the gym or future uses of the auditorium such as a return to use as a cinema(s) would harm the living conditions of the occupiers of the flats. This matter was considered by the Council's Pollution Control and Conservation Officers who concluded that the revised mitigation scheme would be acceptable subject to condition. I am satisfied from the evidence that the concerns put before me could be overcome by way of suitably worded conditions, along the lines of those suggested by the appellant, were I minded to allow the appeal.
21. I note that the change of use of this building has been granted planning permission by the Council in the past, including to use as a health club, restaurant, church and a retail store either separately or in combination. However, none of these permissions appear to have been implemented and they were granted prior to the publication of the Framework. In which case these considerations, taking this proposal on its merits, do not outweigh the harm I have identified to the listed building and the Conservation Area.
22. In addition, it was drawn to my attention that a charitable trust or a company such as the Whiteladies Picture House Ltd could be used to keep the building in cinema use. However, I heard that such proposals are at a very early stage of development with no firm offers of grant assistance to fund such schemes. Accordingly, I give this consideration little weight.
23. The written Ministerial Statement; *Change of Use: Promoting Regeneration* was referred to in support of the proposal as it is claimed it shows the urgency and priority of the government's approach to regeneration. It was agreed by the parties that the change within D2 of cinema to gym is a permitted change and I have concluded that the works to the listed building, to effect the gym use, would be acceptable. In my judgement however, this consideration would not outweigh the harm I have identified to the heritage assets, under paragraph 134 of the Framework, arising from the proposed extension and loss of historic plan.

Conclusion

24. For the reasons given above, and taking all matters raised in the representations into account including the letters in support of the proposal, I conclude that the appeals should be dismissed.

Richard McCoy

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stemp of Counsel

He called

Mr Nash BA, Dip Arch,
RIBA, SCA, AABC

Senior Partner, Nash Partnership

FOR THE APPELLANT:

Mr Grant of Counsel

He called

Mr Brooks BSc (Hons)
Mr Alder BA, Dip Arch,
Dip Arch Cons, IHBC,
RIBA

Director, Macarthur Wilson

Quentin Alder Architects

Mr Woodward RIBA
Mr Orr BA(Hons), BPL,
Dip UD, MRTPI

Woodward Architectural Practice

Partner, CSJ Planning Consultants Ltd

Dr Cogger BSc CEng,
FIOA

Partner, English Cogger LLP

FOR KEEP CINEMA LOCAL:

Mr Langdon of Counsel

He called

Ms Appelby

Local resident

Mr Staples BSc, MSc

Geologist

Cons Hist Bldgs

Local resident/freelance scriptwriter and editor

Mrs Western

Local resident

Ms Davies

Local resident

Ms Wheeler

Acoustics Consultant

Mr Trevor-Jones CPhys,
MInstP, FIOA

INTERESTED PERSONS:

Ms Lloyd

Local resident

Mr Ferguson

Mayor of Bristol

Mr Bekhradina

Local businessman

Mr Fells

Whiteladies Picture House Ltd

DOCUMENTS

- 1 Council's letter of notification of Inquiry
- 2 Letter of objection from Mr Pieri
- 3 Letter in support from First Step Homes
- 4 Letter in support from Ruby & White Butchers
- 5 Email exchange with Insight Retail Consulting re Everyman
- 6 Drawing Schedule

- 7 Evidence submitted by Mr Fells
- 8 Condition 8 amended wording
- 9 Condition 8 further amendments to the wording
- 10 Additional condition in respect of render
- 11 Extract from the Bristol Local Plan
- 12 Ministerial Statement on Change of Use

PLANS

- A Corrected drawing no. 696-10/352G
- B Section B-B drawing no. 696-10/361E

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