



## Appeal Decision

Inquiry Held on 3–5, 10–12 and 16 May 2023

Site visit made on 5 May 2023

**by H Butcher BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> July 2023

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**Appeal Ref: APP/Z3635/W/22/3312440**

**37-45 High Street (former Debenhams), Staines-Upon-Thames TW18 4QU**

- 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 Future High Street Living (Staines) Ltd against the decision of Spelthorne Borough Council.
  - The application Ref 21/01772/FUL, dated 4 November 2021, was refused by notice dated 6 June 2022.
  - The development proposed is the demolition of the former Debenhams store and redevelopment of site to provide 226 dwellings (Use Class C3) and commercial units (use Class E) together with car and cycle parking, hard and soft landscaping, amenity space and other associated infrastructure and works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Retention of the former Debenhams building was not an issue between the main parties at the Inquiry. This, at least in part, comes from the allocation of the site in the Pre-Submission Spelthorne Local Plan for redevelopment<sup>1</sup>. However, the emerging Local Plan, and associated documents, are a considerable way off adoption. Accordingly, I consider the Local Plan, associated documents, and the allocation of the appeal site carry limited weight in the determination of this appeal.
3. Furthermore, the former Debenhams is a non-designated heritage asset, which is common ground between the parties, and there have been a number of objections to its loss submitted by various interested parties, including from the Twentieth Century Society and Save Britain's Heritage. I therefore consider this matter to be of fundamental importance. Consequently, in the interests of natural justice, I raised this matter proactively with the main parties during the course of the Inquiry, giving them the opportunity to comment specifically on the loss of this building. No one would therefore be prejudiced by my taking this into consideration in the determination of the appeal.

### Main Issues

4. The main issues are:

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<sup>1</sup> Site ID ST4/019

- The effect of the development on the setting of Staines Conservation Area and whether the development would preserve the setting of listed buildings in the vicinity of the appeal site;
  - The effect of the development on non-designated heritage assets; and,
  - The effect of the development on the character and appearance of the surrounding area.
5. A reason for refusal relating to provision of affordable housing has now fallen away as a maximum viable level of provision has been agreed along with agreement to a late-stage review mechanism. A S106 Agreement to this effect has subsequently been submitted. It is not necessary for me to look at this in detail given the proposal is unacceptable for other reasons.

## **Reasons**

### *Background*

6. The appeal site comprises a former Debenhams department store. The building is located at the junction of High Street and Thames Street, Staines-Upon-Thames.
7. Planning permission has recently been granted at The Old Telephone Exchange/Masonic Hall, which is located immediately to the south-east of the appeal site, for 206 dwellings in the form of two towers: one of 15 storeys and one of 13 storeys. Construction is currently under way, therefore, it is highly likely that this development will come forward. This matter, therefore, is a material consideration in my determination of the appeal.
8. Whilst the Council recently attempted to extend Staines Conservation Area to include the former Debenhams building this decision was subsequently quashed by the High Court. The former Debenhams does not, therefore, fall within the conservation area for the purposes of this appeal. Notwithstanding this, it is common ground that it falls within the setting of Staines Conservation Area.
9. It is also common ground that the appeal site falls within the setting of a number of listed buildings. These include:
- 15 and 17 Clarence Street, 25 and 27 Clarence Street, 29 Clarence Street, Clarence House, and 33, 35 and 41 Clarence Street
- The Blue Anchor Public House
- 2 Clarence Street, Staines War Memorial, Staines Town Hall
- 21-27 Church Street
- 44, 46 and 48 High Street
10. Furthermore, the appeal site also falls within the setting of various non-designated heritage assets including at Clarence Street, Market Square, Church Street and High Street. Finally, the former Debenhams building is itself a non-designated heritage asset, as previously stated.

*The degree to which the setting of Staines Conservation Area and the setting of the relevant listed buildings in this case makes a contribution to their significance as designated heritage assets, or allows their significance to be appreciated*

11. Clarence Street, leading down to Staines Bridge, along with Market Square, are all located to the west of the former Debenhams building and fall within Staines Conservation Area. This area, in particular, saw a rapid and extensive period of redevelopment in the early to mid-19<sup>th</sup>-century, as evidenced by, for example, the construction of Staines Bridge and the high-status buildings along the northern side of Clarence Street. Consequently, the approach into the town over Staines Bridge has a strong and cohesive character architecturally as many of the historic buildings along this approach share similar characteristics in terms of age, scale, materials, and architectural style; the overriding character being broadly Georgian. This history and cohesive architecture makes a positive contribution to the significance of the conservation area, and is a key element of what defines the character and appearance of the conservation area as a whole.
12. The former Debenhams building is an entirely different building to its historic neighbours. It is a 20<sup>th</sup>-century building constructed of steel and concrete; such modern construction methods allowing its sinuously curved south elevation along Thames Street<sup>2</sup>. It was also purpose built as a department store, hence, it is much larger than the majority of buildings which surround it. It would be simplistic to stop there and simply conclude that its differences mean it makes no contribution to the setting of Staines Conservation Area or its significance.
13. Historically the site of the former Debenhams store, like Clarence Street, tells part of the story of wealth and expansion in Staines-Upon-Thames. There was historically a drapers store at the appeal site which expanded into a larger department store; Morford and Goodman around the 1880s. Kennards took over the department store in 1943 which paved the way for the construction of a purpose-built department store in the early 1960s, which is the building we see today. The letter 'K' can still be seen on the front canted elevation of the building. It latterly became a Debenhams in 1973.
14. The former Debenhams building is therefore an important part of the cultural history of the town and its historic layering. For this reason it adds to the historic significance of the conservation area as a whole through its setting.
15. Architecturally, the former Debenhams is a large building clearly of its time. Its conservative, commercial, classical style, noted by Pevsner<sup>3</sup>, is well executed, and undoubtedly a nod to its classical Georgian surroundings. Furthermore, its front canted elevation which faces down Clarence Street is a feature which can be seen in the adjacent conservation area at 1-9 Clarence Street, which is locally listed. Its architectural style is therefore sympathetic to, and reinforces, the architecture of the adjacent conservation area
16. Furthermore, at four storeys with a flat roof hidden behind a parapet wall, the former Debenhams does not overtly dominate its surroundings: the conservation area; in particular, its more historic parts, mainly comprising buildings of three storeys in height. From some areas within the conservation area, such as Market Square and Church Street, the former Debenhams is barely perceivable.
17. Taking these design attributes together the result is a building which is unapologetically of its time, but also sympathetic to its historic surroundings.

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<sup>2</sup> The Buildings of England, Pevsner, Inquiry Document 8 (ID8)

<sup>3</sup> The Buildings of England, Pevsner, Inquiry Document 8 (ID8)

Consequently, it seamlessly fits into the setting of the conservation area, without detracting from it, but rather, allowing the significance of the conservation area to be appreciated.

18. The appeal site also forms the wider setting to a number of listed buildings in the vicinity of the appeal site, the majority of which fall within the conservation area. Part of the significance of these listed buildings is derived from their group value in reflecting the historic development of the town. For the same reasons as those set out above the former Debenhams store also makes a positive contribution to the historic significance of these listed buildings and allows their significance to be appreciated through its sympathetic design.
19. I have had regard to the development currently under construction at The Old Telephone Exchange/Masonic Hall. Although, when viewed from Clarence Street, these towers would rise up above the former Debenhams building, they would, nevertheless, be a recessive element in the background and as such would not materially diminish its value as set out above.

*The effect of the proposed development on the significance or ability to appreciate the significance of Staines Conservation Area and the relevant listed buildings in this case*

20. The proposed development would see the demolition of the former Debenhams store. This would result in the removal of a historic layer of culture and interest in respect of Staines town centre. It would also result in the removal of a building, which, in design terms, enables the significance of the conservation area and that of surrounding listed buildings to be appreciated.
21. In place of the former Debenhams store it is proposed to erect two towers. When viewed travelling along Clarence Street, within the conservation area, with a historic foreground of, for example, the Georgian buildings along the northern side of the street and the Blue Anchor, the front tower would dominate the view, drawing the eye and distracting from the much smaller scale of the historic foreground as shown in Views 6a and 7 of the appellant's Accurate Visual Representations<sup>4</sup> (AVR).
22. The ability to appreciate the significance of the conservation area and that of the relevant listed buildings within it, when viewed from here, would therefore be diminished by the development. This is true, even taking into account the development at The Old Telephone Exchange/Masonic Hall, as this would be a more recessive element in the street scene being located further away from the conservation area.
23. Furthermore, in both Market Square and Church Street, where the former Debenhams is largely imperceptible, the two towers would, conversely, stand out against the skyline, dominating the view, drawing the eye, and distracting from an appreciation of the significance of the conservation area and relevant listed buildings here as shown in Views 6b, 6e and 11 of the AVR<sup>5</sup>. Again, I have taken into account the development at The Old Telephone Exchange/Masonic Hall which would be far less visible from these areas given their location further away from the conservation area.

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<sup>4</sup> Core Document 11.2 AVR Existing, Type 4, and Cumulative + Type 4

<sup>5</sup> Existing, Type 4, and Cumulative + Type 4

24. 44, 46 and 48 High Street is a Grade II listed building which sits outside of the conservation area on High Street. This is a noticeably less historic part of the town, albeit it is just adjacent to the conservation area, and from here the rear of the former Debenhams is visible. This elevation of the appeal building is less visually appealing than its principal elevations. At this proximity the former Debenhams is also a relatively dominant feature in the setting of this listed building. The development, would, however, be a vastly more imposing addition to the setting of this listed building than the existing former Debenhams, dominating and distracting from the ability to appreciate the significance of this listed building as shown in View 4 of the AVR<sup>6</sup>.
25. The point was made by the appellant's heritage witness that the best views of some heritage assets in this case was facing straight on to them rather than at oblique angles travelling through an area. The Clarence Street terrace is one such example of where this argument was deployed in the Inquiry. Be that as it may, in my view, for the vast majority of people, heritage is something which is enjoyed kinetically as people move through and around places. It is often only the more committed heritage enthusiast who will study heritage assets in greater detail than this. I have therefore applied this approach in coming to my findings above.
26. Consequently, I find that the proposal would result in harm to the significance, and ability to appreciate the significance of, the conservation area and the relevant listed buildings in this appeal, through harm to setting.

*Exploration of ways to maximise enhancement and avoid or minimise harm*

27. The appellant's heritage expert made the case that the canted element of the existing building distracts from the historic line of the High Street. The new building, it is argued, would, instead, have a less prominent canted element and the front of the building would be on High Street.
28. From the visuals before me, however, the canted element of the proposed development, when viewed from Clarence Street, is as prominent, if not more so given its height. Furthermore, given the absence of a defining principal elevation in design terms, it would be impossible to discern where the front of the building was from anywhere other than directly at the base of the building. Therefore, I find very little merit in terms of the purported reinstating of the historic line of the High Street. In any event, any disruption to the historic line of the High Street is predominantly a product of road planning in the 1960s rather than the former Debenhams store.
29. Façade retention has been ruled out by the appellant because of the additional cost and complexity compared with a more straightforward conversion to retail at the ground floor and residential above, which the appellant has shown to be unviable. It is therefore not an option before the Inquiry.

*Overall conclusion on Heritage*

30. Taking the above points together I find that the development would not preserve the setting of Staines Conservation Area or the setting of the relevant listed buildings in this case, but would harm them. It would therefore conflict with policies EN5 and EN6 of the Core Strategy and Policies (2009) (CS). These policies do not include the weighing exercise of harm against public benefits as

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<sup>6</sup> Existing, Type 4, and Cumulative + Type 4

set out in the Framework. However, as also set out in the Framework, Plans should avoid unnecessary duplication of policies that apply to a particular area including policies in the Framework. Therefore, this omission does not, in my view, reduce the weight to be afforded to any breach of these policies. In any event, even if ENV5 and ENV6 were assessed as out of date, I find that the weight to be given to para 202 of the Framework, considered below, would be of equivalent weight.

31. The harm I have found would be 'less than substantial' in the terms of the Framework paragraph 202 as it would relate to only part of the contribution which setting makes to the significance of Staines Conservation Area as a whole and listed buildings in the local vicinity of the former Debenhams store. There is no requirement for me to place the degree of 'less than substantial harm' on a spectrum in order to conclude on heritage matters.
32. As set out in paragraph 202 of the Framework, where a development proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
33. The public benefits in this case would include the creation of 226 Build-to-Rent dwellings, required to address the existing agreed deficit in housing, 22% of which would be affordable. These homes would bring long-term economic benefits in terms of local expenditure and operational jobs related to the management and maintenance of the building, as well as short-term economic benefits during construction. These benefits are significant. The benefit of retail provision at ground floor is tempered by the fact that there is currently such provision.
34. It would also bring benefits by virtue of required works to the existing bus stop facilities on Thames Street and to the Memorial Gardens to be secured by s106 agreement. Whilst these are works required to mitigate the impact of the development they would, nevertheless, result in benefits to the wider public as well. New green space would also be incorporated into the proposal on a site where none currently exists.
35. There is a further public benefit in not allowing the building to remain largely vacant. It is currently only partially tenanted on a short-term basis at ground floor. It is unlikely a tenant would be able to take on a building of this size in its entirety given market conditions. It has also been demonstrated that a residential conversion of the upper floors, even with a two-storey roof extension, would not be viable; although the two-storey roof extension, of itself, would result in more positive outcomes in terms of monetary returns and efficient, high quality, living space, than the conversion of the existing upper floors.
36. SAVE Britain's Heritage publication: *Departing Stores, Emporia at risk*, published in 2022<sup>7</sup>, showcases a large number of case studies where vacant department stores have been re-used, including flexible office space, individual retail units, art galleries, community uses, hospitality, or a mix of these. Whilst residential may form part of the solution, in my view, alternative uses to the upper floors of the existing store should be explored in more depth and with a consideration of local need before concluding this building has no future. This

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<sup>7</sup> ID5

therefore limits the weight I afford to the proposition that the current building is unable to be converted and re-used in a viable manner and to the benefit of avoiding a vacant site.

37. The proposal would maximise the development capacity of this accessible site. Similarly, I accept that the Emerging Plan through allocations is seeking to meet the housing requirement having regard to the constraints this borough faces. I have taken these benefits into account accordingly. That it may be of good design is a neutral factor as all new development would be expected to be as such.
38. The proposal would also incorporate a variety of energy/carbon reducing measures and take a 'fabric first' approach to its construction. However, this particular benefit is tempered by the fact that the demolition of the current former Debenhams store is not an environmentally conscious solution, it being accepted that this would result in the loss of embodied carbon. As set out at paragraph 152 of the Framework, the planning system should encourage the reuse of existing resources, including the conversion of existing buildings.
39. Finally, in respect of the argument that the development carries with it a message of huge inward investment for the town, at the time of my site visit it was already apparent that there was inward investment due to the presence of cranes and sites under construction in the area. This therefore attracts minimal weight as a benefit.
40. Overall, I consider the benefits in this case attract significant weight. However, considerable importance and weight must be given to the desirability of preserving the setting of listed buildings. Great weight must also be given to the conservation of designated heritage assets (Framework para 199). Given the multiple heritage assets I have found to be adversely affected in this case I find that this harm is not outweighed by the public benefits.

#### *Non-designated heritage assets*

41. I have set out in my decision above the historic and architectural significance of the former Debenhams. The proposal before me would result in its total loss. This would be the highest scale of harm to the significance of this non-designated heritage asset. The appellant makes much of previous efforts and failures to locally list the building. Nevertheless, at the time of writing this decision, it remains a non-designated heritage asset. Furthermore, this is not surprising, indeed as the Twentieth Century Society note in their comments, such buildings are currently under threat.
42. In addition to this there are a number of non-designated heritage assets which would also experience harm to their setting. The effects on these buildings in Market Square, Clarence Street, and Church Street, which fall within the conservation area, would be broadly similar to that which I have already set out in respect of designated heritage assets in these areas, as they are all within relatively close proximity of each other. Essentially, the dominance of the towers would draw the eye and distract from these modest historic buildings, which would be detrimental to one's ability to appreciate their heritage interest.
43. The same is true of non-designated heritage assets in the High Street, the most pronounced effects being on those closest to the appeal site. Again, the

development would dominate and detract from these heritage assets impairing an ability to appreciate their heritage interest.

44. For these reasons the development would conflict with Policy EN5 of the CS which, in respect of non-designated heritage assets, seeks to ensure that their character and setting is preserved in development proposals. I have also had regard to paragraph 203 of the Framework which requires a balanced judgement in respect of non-designated heritage assets in terms of the scale of any harm or loss and their significance.

#### *Character and appearance*

45. The siting of tall buildings around an urban centre is not out of the ordinary, and generally increased densities and high-rise development is most suitable to existing centres. Indeed, as already noted, permission has been granted for two towers of a similar scale to that proposed at The Old Telephone Exchange/Masonic Hall. Furthermore, other tall buildings have also either been granted planning permission, are under construction, or have been constructed around the town centre at Staines-upon-Thames. However, whilst tall buildings, in principle, may be acceptable, given their noticeable height they require careful consideration in terms of their siting and any subsequent effects on local character and appearance.
46. In this case the tall buildings would be sited in the centre of the town with one of the towers being located directly on High Street. The High Street is domestic and human in scale consisting of a wide pedestrianised street lined with predominantly two and three storey retail and food outlets. Currently, the former Debenhams at four storeys is one of the most dominant buildings on the High Street matched most closely by the Premier Inn at the other end. The result is these two four storey buildings effectively work as bookends to the High Street whilst being broadly in-keeping with the scale of surrounding buildings.
47. The proposed tower on High Street would be introducing a vastly taller building in very close proximity to an area where the overriding character is human and domestic in scale. It would feel dominating and oppressive due to its height, when viewed in close proximity on High Street, bearing down on the pedestrians and buildings below. View 4 of the AVR<sup>8</sup> demonstrates these impacts.
48. The other tower would be recessive to the High Street being set behind it, like the towers at The Old Telephone Exchange/Masonic Hall, which would reduce its visual presence here.
49. To a lesser degree, but still to a harmful extent, the tower fronting the High Street would also be overly dominant and out of character with the lower storey buildings on Clarence Street. Both towers would result in similar effects in respect of properties along Church Street. The difference being due to the differing perspective of the two towers when viewed from different areas.
50. The other tall buildings referred to in this Inquiry are generally all set away from the High Street and in areas where there are larger buildings of various styles and forms adjacent, therefore, their impacts are not comparable to the specific impacts I have identified in the scheme before me. Furthermore,

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<sup>8</sup> Existing, Type 4, and Cumulative + Type 4



Charter Square, although at the other end of the High Street, is not directly on the High Street, but located behind the railway line.

51. I have considered the merits of creating a cluster of tall buildings along with those at The Old Telephone Exchange/Former Masonic Hall but this does not outweigh my concerns above.
52. For all of these reasons, the proposal would conflict with Policies EN1 of the CS. Of note, this policy requires new development to respect and make a positive contribution to the street scene and character of the area in which they are situated, paying due regard to the scale and height of adjoining buildings and land.
53. I find no material harm to the setting of the River Thames as, based on the views put before me, the proposed towers would largely be seen at a distance and in conjunction with those currently under construction at The Old Telephone Exchange/Masonic Hall. I therefore find no conflict with Policy EN9 which seeks to protect the setting of the River Thames. This does not, however, diminish my findings above in respect of character and appearance.

*Overall Planning balance*

54. I have found that the harm to designated heritage assets is not outweighed by the public benefits in this case. This disengages the so called 'tilted balance' as it provides a clear reason for refusing the development. Furthermore, I have found harm to non-designated heritage assets and harm to the character and appearance of the area. Cumulatively, these harms are significant and result in conflict with the development plan as a whole. The material considerations in this case do not outweigh the totality of this harm.
55. The appeal is dismissed.

*Hayley Butcher*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant of Counsel, instructed by Spelthorne Borough Council

He called:

Nigel Barker-Mills BA (Hons), PHD, Dip Cons AA, IHBC, FSA of Barker Mills Conservation

Phillip Hughes BA (Hons), MRTPI, FRGS, Dip Man, MCMi of PHD Chartered Town Planners Ltd: Townscape, Planning

### FOR THE APPELLANT:

Paul G Tucker KC, assisted by Arevik Jackson, instructed by Cerda Planning Ltd

He called:

Gail Stoten BA (Hons) MCIfA FSA Heritage Executive Director Pegasus Planning Group

Colin Pullan BA (Hons) DipUD, Director Urban Design & Masterplanning Lambert Smith Hampton

Richard West BA (Hons) MRTPI, Director Cerda Planning Limited

### INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Mr Bower – Staines Village Residents and Traders Association

**DOCUMENTS SUBMITTED DURING THE INQUIRY**

ID1 Appearances on behalf of the appellant

ID2 Appearances on behalf of Spelthorne Borough Council

ID3 Opening Submissions on behalf of the Appellant

ID4 Opening Submissions on behalf of Spelthorne Borough Council

ID5 Departing Stores, Emporia at Risk

ID6 Design note on façade retention

ID7 Excerpt from Spelthorne Local Plan Process

ID8 Excerpt from the Buildings of Britain, Pevsner

ID9 Existing Basement and Ground Floor Plans

ID10 Recommended Conditions

ID11 Agreement

ID12 CIL Compliance Statement

ID13 Closing Submissions on behalf of Spelthorne Borough Council

ID14 Closing Submissions on behalf of the Appellant