
Appeal Decision

Site visit made on 13 December 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 16 December 2016

Appeal Ref: APP/W1525/W/16/3149853

208 New London Road, Chelmsford, Essex, CM2 9AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Freese against the decision of Chelmsford City Council.
 - The application Ref 15/01792/OUT, dated 26 October 2015, was refused by notice dated 26 January 2016.
 - The development proposed is described as '*construction of new dwelling, demolition and replacement of cart lodge, alterations to listed building*'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal scheme was submitted in outline, with appearance, landscaping and scale reserved¹. Further details were sought by the Council in respect of appearance and scale². As such, the only matter reserved is landscaping, and I have proceeded on this basis. During the appeal stage, it was brought to my attention that listed building consent had been refused (ref 15/01790/LBC) for a similar scheme. For the avoidance of doubt, this decision deals with an appeal made against an application for outline planning permission only.

Main Issues

3. The main issues are whether the proposed development would preserve any features of special architectural or historic interest of the listed building or its setting, and whether it would preserve or enhance the character or appearance of the New London Road Conservation Area.

Reasons

4. The appeal building, No 208 New London Road, is a Grade II listed building (together with No 206) located within a residential area of Chelmsford. It is a semi-detached property, with a large garden to its rear that contains a cart lodge and is bounded by a wall along part of its length. The significance of the listed building and conservation area derive in part from their architectural appearance and their historical links with the growth of Chelmsford during the 19th Century, with the listed building dating from the 1840s and the listing description detailing features such as the Flemish bond used for the gault brick and oval pediment windows. The historic character of the area is supported by

¹ Detailed on the 'Application for Outline Planning Permission with Some Matters Reserved' form

² See Para. 38, Council's Appeal Statement

the details in the *Register of buildings of local value in Chelmsford January 2009*; in particular those along New London Road.

5. The appeal scheme seeks the erection of a single dwelling on a parcel of land located beyond the lawned garden area and wall to the rear of No 208 New London Road. This would involve the demolition of an existing cart lodge, the rearmost part of the garden wall and the removal of an 'oriel' style window attached to the flank wall of the listed building, together with the filling in of a glazed lightwell underneath that window. I note that in 2002 a scheme was approved for the erection of one dwelling as detailed within Appendix SOC1, ref 02/01342/OUT, but was not implemented.
6. The appellant asserts that this earlier approval demonstrates that the erection of a new dwelling on the appeal site is acceptable in principle. However, this permission was granted over a decade ago, during which time the local and national planning context has changed with the introduction of documents such as the *Core Strategy and Development Control Policies Development Plan Document 2008 (CS)* and *National Planning Policy Framework* (the Framework). What is more, I have not been provided with the full details of this earlier permission and can afford this factor no more than minimal weight. In any case, I have considered the appeal scheme on the basis of its own planning merits.
7. The main parties agree that the cart lodge is a curtilage listed building³, and I saw that the boundary garden wall appeared to be attached to both the cart lodge and the main building. Section 1(5) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended (herein PLBCA), states that '*listed building means a building which is for the time being included in a list compiled or approved by the Secretary of State...and for the purposes of this Act – (a) any object or structure affixed to the building; (b) any object within the curtilage of the building, which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building*'.
8. There is little evidence before me that indicates that the cart lodge and the garden wall were not present on 1st July 1948, are not within the grounds of the listed building more generally, are not in the same ownership as the listed building, and serve ancillary functions to the listed building. Given the main parties broadly agree on this, and both the written evidence before me and the facts on the ground I saw during my site inspection, I see no reason to disagree. I therefore find that for the purposes of this appeal, the cart lodge and the side and rear garden walls are curtilage listed. As such, these should be treated as part of the listed building as set out in Section 1(5) of the PLBCA.
9. The significance of the brick built, partly tile capped, garden walls is that they demarcate the formal garden areas serving Nos 208 and 206 New London Road, with the area for the proposed dwelling located beyond the wall and outside of the conservation area. I was not able to clearly see if there were any patterns in the brickwork of the rear garden wall or it determine its exact age; although the limited information before me suggests that it may be contemporaneous with the age of the core listed building.

³ Appeal Statement of Case, (undated) pages 5, 6 & 7, paragraph 5.7 and Chelmsford City Council Appeal Statement (undated), Paragraph 28

10. The proposal would see the complete demolition of the rearmost part of the garden wall up to its boundary with No 206, in order to provide access and a parking area to serve No 208 and the proposed dwelling. The rear garden wall plays an important part in delineating the historic grounds of the listed building; both at 208 and 206 New London Road. Its loss would therefore have a negative impact on the special interest of the listed building and its setting, through the loss of the important demarcation between the historic grounds and the area beyond.
11. In terms of the significance of the cart lodge, this derives in part from its physical appearance and features identified by the Council such as coal shed, hay loft, trough, stables and coach store⁴. Internally, the building appeared to be structurally sound, if somewhat aged, and there is no structural survey to the contrary. The plan form also appears to be relatively unchanged even though it is now used as a workshop space. Beyond Paragraphs 9.22 to 9.31 of the appellant's Design and Access Statement there is little detailed analysis of the significance or features of interest for both the main body of the listed building and curtilage listed cart lodge.
12. However, I was able to see during my site inspection that beyond the features identified by the Council, the physical presence of the historic cart lodge performs a key role in understanding the evolution of the listed building and the differing needs of its occupants over time. I was able to see that views of the cart lodge were clearly visible from New London Road, and it was possible to see from the public realm not only the slate roof (with clay ridge tiles), but also elements of the brick built single storey element to the front of the cart lodge.
13. To the front of the cart lodge itself is an area of gravelled hardstanding, and it is clear to see that there is a clear functional link, both today and historically between the dwelling at No 208 and the cart lodge. As such, the cart lodge, in its current form and location is an important component of understanding the significance of the listed building. The location of this characterful building and its appearance within the street scene also makes an important, if limited, contribution to this part of the conservation area.
14. Whilst a replacement cart lodge has been suggested, including the reuse of materials, this fails to appreciate that the existing cart lodge and its current location are an important part of understanding the listed building. The proposal would therefore fail to preserve the special interest of the listed building and, for similar reasons, fail to preserve the character of the conservation area. In terms of setting, the proposal would require the demolition of the cart lodge and its replacement within another in a different location that would not replicate the historical functional need. What is more, it would reduce the overall deep garden to the rear of the property through features such as the new cart lodge building and large area of car parking. These are both factors which would result in harm to the setting of the listed building, and further erode the significance of the listed building and conservation area.
15. In terms of the proposed dwelling it is clear from the street layout of the surrounding area⁵, that its footprint would be large and sprawling; consisting of

⁴ Chelmsford City Council Appeal Statement, Para 28

⁵ See Drawing GA(101) Revision A, for example

the main body of the dwelling and also the attached double garage. Visually this would be exacerbated by the large areas of roof slopes shown, including a mixture of dormers and rooflights, and also differing eaves heights. These are all features that add confusion to the roofscape of the proposed building, and together with its large footprint, reinforce the incongruity of its form.

Moreover, the backland nature of the proposal, being set some distance from the main highway, would be an uncharacteristic feature within the street scene, where other features are limited when and where present. As such, the scale and appearance of the proposed dwelling would not be acceptable, and this adds only further to the identified harm.

16. Paragraphs 132 to 134 of the Framework set out degrees of harm to designated heritage assets, which includes listed buildings and conservation areas, in the form of 'substantial' and 'less than substantial harm'. Neither term is defined within the Framework. In this case, as the core of the listed building would, in the main, be unaffected by the proposal I consider that the proposal would result in no more than less than substantial harm. This reflects paragraph 5.32 of the appellant's Statement of Case where they 'submit that less than substantial harm will occur'. Less than substantial harm does not equate to less than substantial planning objection and the overarching statutory duty imposed by Sections 66(1) and 72(1) of the PLBCA, which properly understood, requires considerable weight to be given to the desirability of preserving listed buildings (and their settings) and conservation areas.
17. Paragraph 134 of the Framework indicates that where a proposal will lead to less than substantial harm, this should be weighed against the public benefits of the proposal. In this case, the public benefits cited by the appellant are restricted to factors such as the provision of one dwelling and opening the land up for such growth. However, these public benefits are very limited and do not outweigh the less than substantial harm to the designated heritage assets in the form of the listed building and its setting, and the conservation area.
18. I therefore conclude that the proposed development would fail to preserve features of special architectural or historic interest of the listed building and its setting and would fail to preserve the character of the New London Road Conservation Area. The proposal would therefore conflict with Policies DC17 and DC18 of the CS, which, amongst other aims, set out that planning permission will be refused where development proposals fail to preserve or enhance the special character and/or setting of listed buildings.
19. It would also be contrary to the Policies of the Framework, which beyond those already cited include conserving heritage assets in a manner appropriate to their significance. It would also fail the overarching statutory duties set out in Sections 66(1) and 72(1) of the PLBCA.

Conclusion

20. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR