
Appeal Decisions

Site visit made on 30 July 2019

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2019

Appeal A Ref: APP/X1545/W/19/3220398

146-146A High Street, Maldon CM9 5BX

- 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 Ms Naheed Zaman against the decision of Maldon District Council.
 - The application Ref FUL/MAL/18/00696, dated 4 June 2018, was refused by notice dated 17 July 2018.
 - The development proposed is demolition of No. 146 High Street and associated outbuildings to the rear (No. 146A); the erection of a three storey replacement building to provide 2no. ground floor retail units with 2 no. apartments above; and, erection of two storey flat roofed building to the rear to provide 2no. apartments.
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Appeal B Ref: APP/X1545/W/19/3229148

146 High Street, Maldon CM9 5BX

- 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 Ms Naheed Zaman against the decision of Maldon District Council.
 - The application Ref FUL/MAL/18/01429, dated 29 November 2018, was refused by notice dated 23 January 2019.
 - The development proposed is external refurbishment to No. 146 High Street to include replacement shop-front, replacement of rotten timber windows lintels repaired and restored, and, brickwork repointed as necessary; demolition of associated outbuildings to the rear of No. 146 High Street (No. 146A); erection of two storey flat roofed building to the rear to provide 2no. apartments.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matter

3. Both appeals concern the same property and were made by the same appellant. The Appeal B scheme would retain and refurbish the existing building on the High Street frontage. The scale and form of the new building to the rear would be the same as that proposed under Appeal A, albeit with a different elevational treatment. Given the similarities between the appeals, I have dealt with them in a single decision letter.
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Main Issues

4. The main issues with regard to Appeal A are whether the proposal would:
 - preserve or enhance the character and appearance of the Maldon Conservation Area and the setting of the Grade II listed building at 144 High Street;
 - provide satisfactory living conditions for the future occupiers of the second floor flat with particular regard to outlook, light and ventilation.
5. The main issue with regard to Appeal B is whether the proposal would preserve or enhance the character and appearance of the Maldon Conservation Area.

Reasons

Character and Appearance (Appeals A and B)

6. The Maldon Conservation Area (CA) covers a large part of the town, centred on the High Street. The appeal site is located towards the eastern end of the High Street where fewer early buildings survive. With the exception of the modern developments at Embassy Court and Edward Bright Close, the buildings also tend to be smaller in scale and more modest in form than those at the western end of the High Street. Most are two storeys in height with fairly steeply pitched roofs running parallel to the road, although some articulation of the frontages is provided by occasional modest projecting gables and parapets.
7. The siting of the buildings provides a reasonably consistent frontage along both sides of the road. Together with the gentle curve and gradient of the road, their eclectic mix of ages and styles gives this part of the CA an attractive, informal, almost domestic, character. Collectively therefore, the harmony created by the scale, form, siting and appearance of the buildings in this part of the High Street contributes positively to the significance of the heritage asset.
8. The listing for No 144 describes it as a shop and cottage dating from the sixteenth and early seventeenth centuries. Whilst there have been recent external alterations, its scale, form and materials clearly show its medieval origins. The building sits on the back edge of the footpath and the access between it and the appeal site allows an appreciation of its front and side elevations. The appeal site adjoins the listed building and falls within its immediate setting.
9. The main building at the front of the appeal site likely dates from the early twentieth century and, whilst not particularly architecturally distinguished, its scale and form sits comfortably within its surroundings, including the setting of No 144. Although it is set back from the road slightly further than its neighbours, there is little loss of enclosure and, overall, the continuity of the frontage is maintained. As such, the building makes a modest positive contribution to the character and appearance of the CA.
10. To the rear of the main building are a single storey and a one and a half storey outbuilding. Both have simple built forms and pitched roofs and are subservient in scale to the main building. This reflects their secondary location. They can be seen in public views from the High Street along the site access and in private views from the upper floors of the residential buildings in Tait Mews.

11. Appeal A proposes the demolition of all the buildings on the site. The main building would be replaced with a two plus attic storey building (the front proposed building). Although this would not have windows at the second floor level, the storey heights and eaves level of the building would be appreciably taller than the relatively modern building at No 148, and very significantly taller than No 144. The broad projecting front gable would further increase the bulk and scale of the building. Whilst there are other projecting gables in the area, those that are architecturally successful sit comfortably within, rather than dominate, their elevations. The proportions of the elevations of Embassy Court and Edward Bright Close do not follow this pattern and, therefore, do not offer a robust justification for the proposed gable projection. The proposal includes full height glazed panels at ground floor level and large and widely spaced windows at first floor level. This fenestration would emphasize the scale of the gable projection, as well as detracting from the proportions of the elevation as a whole.
12. Consequently, the height and fenestration of the front proposed building would result in a jarring increase in scale and poorly proportioned elevation compared with neighbouring buildings. As a result, the proposal would upset the harmonious composition of buildings which contributes to the heritage significance of the CA. The difference in scale between the proposal and No 144 would be particularly discordant and would adversely affect the otherwise restrained setting of the listed building. These effects would more than off-set any improvement in the sense of enclosure created by the siting of the proposed building and the removal of external display items from the forecourt. My concerns are with the scale, proportions and fenestration of the proposed building, rather than the use of contemporary architecture or materials.
13. The outbuildings to the rear would be replaced by a two storey, flat roofed building accommodating two residential units (the rear proposed building). The units would have a staggered arrangement which would give some articulation to the front elevation of the building. This would be reinforced by the variation in the use of external materials in both the Appeal A and Appeal B schemes. However, in both cases, these features would do little to alleviate the uncompromising rectilinear form of the building. Moreover, the building would not reflect or take inspiration from the characteristic forms or appearance of the buildings which give the CA its significance. Nor, indeed does the form of the rear proposed building or the way in which its external materials are arranged reflect or relate positively to the composition of the front proposed building (in the case of Appeal A) or the retained building (in the case of Appeal B).
14. The rear proposed building would replace two existing buildings. Nevertheless, by virtue of its height and massing it would have a considerably greater presence in what is a fairly confined space to the rear of the front proposed building (Appeal A) or retained building (Appeal B). As such, it would not have the subservience appropriate to its secondary location, notwithstanding that it would be no closer to the rear of the front proposed building (Appeal A) or retained building (Appeal B). In both cases, this would be apparent in public views from the High Street as well as in private views from surrounding buildings.
15. Overall therefore, I find that Appeal A would not preserve or enhance the character and appearance of the CA or the setting of the listed building at No

144. Appeal B would not preserve or enhance the character and appearance of the CA. Consequently, both proposals would conflict with Maldon District Approved Local Development Plan 2017 (LDP) Policies S1, S5, H4, D1 and D3. Amongst other things, these policies require proposals to achieve a high quality of design which respects and enhances the local character and context in terms of height, scale, form, proportions and use of materials (S1 and D1), preserve or enhance the special character, appearance and setting of heritage assets (D3) and the Maldon Central Area (S5) and avoid the loss of heritage features (in the case of backland and infill development under Policy H4).
16. The proposal would also conflict with National Planning Policy Framework (the Framework) paragraphs 192 and 193 which require the desirability of sustaining and enhancing the significance of heritage assets to be taken into account and to give great weight to the conservation of the asset according to its importance. In this case, both the CA and the setting of the listed building benefit from statutory protection¹ and are of considerable significance. Whilst the harm would be less than substantial in case of both appeals, the Framework is also clear that great weight should be attached to heritage harm irrespective of whether it is substantial or less than substantial. Paragraph 196 requires less than substantial harm to be weighed against the public benefits of the proposal. I do this in the Planning Balance below.

Living Conditions (Appeal A only)

17. The second floor flat in the front proposed building would be within the roofspace. Its only outlook and natural light and ventilation would be provided by rooflights. No information has been provided on the height of the rooflights above the floor level or their openable areas and it is difficult to establish their size in relation to the floor areas of the rooms they serve. As such, it has not been adequately demonstrated that the proposal would provide a reasonable outlook and satisfactory levels of natural light and ventilation for the occupiers of the flat. It has not been shown, therefore, that the proposal would offer acceptable living conditions for future occupiers.
18. Consequently, the proposal would not comply with LDP Policy D1 inasmuch as it requires proposals to encourage the effective use of internal space or paragraph 127 of the Framework insofar as it requires developments to promote a high standard of amenity for future occupiers.

Other Matters

19. I have had regard to the other concerns expressed locally, but they have not led me to a different overall conclusion.

Planning Balance and Conclusion

20. I recognise that the appeal proposals have sought to address the reasons for refusal of an earlier scheme (application reference FUL/MAL/17/01014). However, my decision is based on the planning merits of the current proposals.
21. The proposals derive support from the Framework to the extent that it seeks to boost the supply of housing, particularly the supply from small and medium sized sites and proposals that make effective use of land. Policy S1 of the LDP also seeks to deliver sustainable housing growth and the effective use of land

¹ Town and County Planning (Listed Buildings and Conservation Area) Act 1990 sections 66(1) and 72(1)

and Policy S5 promotes retail and housing development within the Maldon Central Area. Policy H4 also seeks to optimise the use of land. Policy H2 encourages the provision of smaller units such as those contained within the appeal proposals.

22. However, the proposals would make a modest contribution to the supply of new housing. Moreover, both the Framework and the relevant development plan policies also require proposals to safeguard the environment, especially the historic environment, and ensure satisfactory living conditions for residential occupiers. I have found that the proposals would not meet these objectives. I am required to give great weight to the harm to the historic environment.
23. The existing main building is looking rather tired and is in need of maintenance. I recognise that the Appeal B proposals have the potential to help fund works to the building. However, the works have not been costed and no viability assessment has been provided. Nor has it been shown that other, less harmful, development options have been considered. These factors limit the weight that I can attach to the potential benefit of improving the appearance of the retained building (Appeal B). Moreover, the harmful effect that the proposals would have on the character and appearance of the CA would negate any benefit in terms of regenerating this part of the High Street (Appeals A and B).
24. Overall therefore I find that the public benefits of the proposal do not outweigh the harm caused to the CA (Appeals A and B) and the setting of No 144 (Appeal A). As such, the proposals would not comply with the development plan when read as whole or the Framework and would not amount to sustainable development.
25. For these reasons, Appeals A and B should be dismissed.

Simon Warder

INSPECTOR