



Appeal Decision

Site visit made on 22 August 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Appeal Ref: APP/X1545/Y/21/3276920

144 High Street, Maldon, Essex CM9 5BX

- 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 Southend & District Building Preservation Trust [East] Ltd in association with Bellhouse Investments Ltd against the decision of Maldon District Council.
 - The application Ref LBC/MAL/20/01208, dated 3 December 2020, was refused by notice dated 26 February 2021.
 - The works proposed are remove brick pier/pillar to the east boundary wall. See plan with pier/pillar marked in red. Also see photographs.
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Decision

1. The appeal is allowed and listed building consent is granted for remove brick pier/pillar to the east boundary wall at 144 High Street, Maldon, Essex CM9 5BX in accordance with the terms of the application Ref LBC/MAL/20/01208 dated LBC/MAL/20/01208 and the plans submitted with it, subject to the following conditions:
 - 1) The works hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Following removal of the pier hereby permitted, any damaged bricks situated within the face of the boundary wall behind the location of the pier shall be replaced with undamaged soft red bricks to match the existing. These works shall be carried out within a period of three months from the removal of the pier.

Applications for costs

2. An application for costs was made by Southend & District Building Preservation Trust [East] Ltd in association with Bellhouse Investments Ltd against Maldon District Council, which is the subject of a separate Decision.

Procedural Matters

3. Despite the description of works set out in the banner heading above, I have omitted superfluous information that does not form part of the description of works. The works proposed are therefore to 'remove brick pier/pillar to the east boundary wall'. I have therefore dealt with the appeal on this basis.
4. Listed building appeals are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, they do not need to be determined in accordance with the development plan. This is further confirmed

by the lack of a requirement in section 16(2) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) to have regard to the development plan when determining applications and appeals for listed building consent. Policy D3 of the Maldon District Approved Local Development Plan 2014-2029 (July 2017) as referred to by the Council is therefore a material consideration only.

5. Section 72(1) of the Act confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This duty applies to listed building appeals. Although harm to the Maldon Conservation Area is not referred to on the Decision Notice, the Council has referred to it in its evidence, I have therefore considered it appropriate to consider this in my reasoning.
6. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party, particularly as the revisions do not alter the policies upon which this appeal turns.

Main Issues

7. The main issues are whether the proposal would preserve a Grade II listed building, 144 High Street, and any of the features of special architectural or historic interest that it possesses, including its setting; and the extent to which it would preserve or enhance the character or appearance of the Maldon Conservation Area.

Reasons

Significance and Setting

8. The appeal concerns a brick pier attached to a boundary wall between separate vehicular accesses alongside 144 and 146 High Street. It is situated on the side facing No 144, which serves the rear of No 144, a 19th Century former coach house (No 144B) and two semi-detached cottages (1 and 2 Tudor Court). The property at No 144 is a Grade II listed building and the site is situated within the Maldon Conservation Area (CA), which covers a significant part of the town, south of the river.
9. The listed building is of two-storeys and likely originates from the 16th Century and early 17th Century. The taller principal range is parallel to the street with a shopfront. A lower gabled cross-wing projects forward at its southeast end. It is constructed on a timber frame and rendered beneath a tiled roof. The detailing is discreet but illustrative of the period. As far as it relates to the appeal before me, its significance lies in its architectural and historic significance as a prominent timber-framed building of 16th Century and early 17th Century origins within the High Street.
10. The listed building also draws significance from its setting and the structures within its curtilage. There is some debate as to the origin of the wall and piers but the main parties agree that they likely predate 1948, so they are protected within the curtilage of the listed building pursuant to section 1(5)(b) of the Act.
11. The brick pier is half circular in form and is situated a few metres further back from a smaller circular pier at the footway edge. Both piers appear to be later additions to the wall due to the brick type and stack bonding used in their

construction. This creates an unusual appearance that sets it apart from most other brickwork within the CA, which is mostly laid horizontally, except for some detailing found on buildings and walls. Its construction therefore demonstrates a degree of skill and craftsmanship.

12. The piers are evident within their immediate surroundings given their close proximity to High Street and the gap between Nos 144 and 146. Despite some damage having been caused to them, they therefore make a meaningfully positive contribution to the significance of the listed building and the character and appearance of the CA. The listed building is a relatively high-status building and, for similar reasons, it is prominent within the CA, so it also makes an important contribution to its character and appearance.

The Proposal

13. The appeal concerns the removal of one brick pillar to the inside of the boundary wall, within the curtilage of the listed building. Three other pillars have already been removed further to the southwest along the wall, but the pillar closest to the street frontage would remain.

Effect of the Proposal

14. The proposal would result in the loss of a prominent feature within the curtilage of the listed building, which makes a positive contribution to its significance and the character and appearance of the CA. This would therefore be harmful to both. However, as the enclosing wall to the curtilage of No 144 and the circular pier would remain, the harm that would be caused by the removal of the pier to the significance of the listed building would be limited in its extent. Unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on an area as a whole and must therefore have a moderate degree of prominence. However, the subject pier is set back between Nos 144 and 146, so it is only apparent from within its immediate context. The harm to the character and appearance of the CA, as a whole, would therefore be limited.
15. The Minutes of the Council's Central Area Planning Committee outline that stack bonding is not inherently strong and it appears as though there is a straight joint between the wall and pier. This therefore makes it more difficult to comprehend that the pier would have been built as a structural support for the wall. Although the boundary wall appears to require some repairs, there is no substantive evidence before me to suggest it would be at risk of collapse were the pier to be removed or be a risk to the listed building.
16. Despite my findings in relation to the structural properties of the pier, its loss would not preserve the significance of the listed building and would have a harmful effect on the character and appearance of the CA.

Public Benefits and Conclusions on the Main Issues

17. The statutory duties in Sections 16(2) and 72(1) of the Act are matters of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the Framework.
18. The proposal would be harmful to the special historic interest of the Grade II listed building, including its setting, and the character and appearance of the CA, which would have a harmful effect on their significance as designated

heritage assets. In my view the harm that I have identified to the listed building would equate to less than substantial harm to its significance. This would be a lower order of harm given the magnitude of the proposed works, the relationship of the pier with the listed building and the fact that the boundary wall and circular pier would be retained. Similarly, given the limited prominence of the proposal within the CA, the harm to its would also be to the lower end of less than substantial harm. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.

19. Although the access beyond the pier is narrower than between it and listed building, the pier is still likely to impede vehicles traversing the access. Increased width for the movement of vehicles and persons residing at the properties to the rear would not, of itself, amount to a public benefit. However, retention of the pier is likely to maintain the potential for damage to be caused to the timber frame structure of the listed building by vehicles utilising the access to No 144 and the addresses to the rear. This amounts to a public benefit of considerable weight, as it would help to preserve the principal heritage asset, the listed building.
20. Taking the above together, the considerable weight to be afforded to the potential reduction in the risk of harm being caused to the listed building would outweigh the harm that would result from the proposal to the special interest of the listed building and the character and appearance of the CA. Moreover, in accordance with paragraphs 199 and 202 of the Framework, considered together, I conclude that the public benefits outweigh the great weight to be given to the lower order of less than substantial harm I have identified.
21. In light of the above, I conclude that the proposed works would preserve a Grade II listed building, 144 High Street, including its setting, and the character or appearance of the CA. Hence, the proposal would satisfy the requirements of the Act, paragraphs 197, 199 and 200 of the Framework and development plan policies insofar as relevant.

Conditions

22. A condition to specify the approved plans is unnecessary for this appeal, as the decision incorporates the plans. However, in the interests of preserving the special interest of the listed building, a condition is necessary for any damaged bricks in the face of the boundary wall to be replaced with matching undamaged bricks. However, I have restricted this to the area adjacent to the pier and included a timeframe clause of three months to ensure that such works are carried out in a timely manner.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR