



Appeal Decision

Site visit made on 13 July 2023

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 2 August 2023

Appeal Ref: APP/A1530/W/21/3287715
20-21 Middleborough, Colchester CO1 1QX

- 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 Mr Ash Afzalnia, Elysium Group against the decision of Colchester Borough Council.
 - The application Ref 211927, dated 8 July 2021, was refused by notice dated 2 September 2021.
 - The development is described as *roof railings and roof strengthening*.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made on a combined application form for planning permission and for listed building consent. Nevertheless, the applications are made under complementary but separate legislation and the Council determined two applications, refusing both. The appellant advises that an oversight meant that only a planning appeal form was sent despite their intention to appeal against both decisions. Nevertheless, as only one valid appeal has been made, I am not in a position to consider that another appeal against refusal of listed building consent under different legislation has been made. I can only determine the planning appeal before me.
3. Despite the description of development, the structure is much more akin to a metal balustrade around the perimeter of a flat roof rather than railings and I have used this term in my decision in the interests of precision. The drawings also show a metal stairway leading from the roof down into a courtyard. It is clear from the Council's officer report that this formed part of the scheme before them and I have considered the scheme on the same basis. The development has already been carried out and from what I observed when I inspected the site the development reflects the arrangement shown on the drawings.
4. Since the Council made its decision, it has adopted the Colchester Borough Local Plan 2017-2033 – Section 2, 2022 (LP2). Along with Section 1¹ (LP1) this now forms part of the development plan and its policies have replaced those in the Core Strategy and Development Policies that were cited in the Council's

¹ Colchester Borough Local Plan 2013-2033 – Section 1, North Essex Authorities' Shared Strategic Section 1 Plan, 2021.

decision notice. The main parties have had the opportunity to comment on the new policies and I have taken these into account in reaching my decision.

Main Issues

5. The main issues raised by this appeal are the effect the development has on the special interest of the grade II listed Bridge House and The Moorings, 20 and 21 Middleborough (Bridge House), and on the character and appearance of the North Station Road Conservation Area.

Reasons

6. Bridge House is a C17 brick house with a pitched, plain tile roof with gables and parapets, and distinctive brick panel details along with finely detailed windows on its south elevation. These aspects along with its age, history, materials and setting all contribute to its significance as a designated heritage asset.
7. A substantial range of extensions have been built to the north and west of Bridge House. However, it is of note that the height and arrangement of the single storey flat roof elements of those extensions has enabled the west gable of Bridge House to remain clearly visible above them, and consequently retain a presence in views from within and beyond the Conservation Area to the south and southwest. Due to its lower height, the extension has left a noticeable gap between its parapet and the eaves of Bridge House. This results in a clear distinction between the two elements when seen from the east and a degree of subservience has been retained. These aspects help to enable the significance of the building to be appreciated and understood.
8. The Conservation Area encompasses historic buildings, interspersed with more recent ones, along North Station Road and some surrounding streets. These form a distinctive historic townscape where the variety of building forms enliven the street and where individual buildings can be appreciated both on their own and as part of this varied character and appearance. The appeal site is located in the area where the group of the oldest buildings around North Bridge complement the largely mid to late C19 character of much of the Conservation Area to the north. These aspects contribute to the significance of the Conservation Area.
9. Whilst it does not completely block them, the balustrade interferes with views of the upper parts of the listed building. The degree of transparency afforded by them varies with the angle they are viewed from. By adding apparent height to the formerly lower flat roofed area, it interrupts how the listed building is experienced, adding an enclosure to those aspects of the roof and gable that were previously unencumbered in views and diminishes this part of its significance. As anticipated by the Council in its pre-application advice and Officer Report, the balustrades have been joined by planters behind them, as well as umbrellas, artificial trees and other paraphernalia which has compounded this erosion of significance.
10. When in leaf the large tree in the courtyard area between Bridge House and the adjoining wine bar considerably disrupts views of the balustrade and metal stairs from the approach to North Bridge. However, at other times of the year more of the development would be apparent from the street. Although not touching the listed building, the proximity the balustrades have to its corner

and eaves creates an uneasy relationship when seen from the east. This diminishes the difference between the historic building and newer additions.

11. Although the development might not interfere with the vistas identified in the draft Conservation Area Appraisal², that document identifies Bridge House and its immediate surroundings as a focal point. The harmful effects identified are not reduced by their being masked by the listed building when viewed from the north nor by an identified vista not being affected.
12. Whilst the presence of the large late c20 Octagon office complex and its car park have a dominating effect on the immediate vicinity and forms a backdrop to some views such that the balustrades appear less prominent, that building is outside the Conservation Area. Viewed from the east it recedes into the background in views of Bridge House. Overall, its presence does not materially reduce the development's harmful effects on Bridge House or the Conservation Area.
13. Their simple construction and black colour go some way to reducing their prominence, but these aspects do little to reduce their harmful effect. Their generic and somewhat utilitarian appearance bears very little in common with the design and features of the modern building on which they are situated nor its historic neighbour. This extends to the white painted stair. The slight set back above the restaurant's entrance does not reduce their presence.
14. Consequently, the development has failed to preserve the listed building's special architectural and historic interest and hence significance. It follows that as the special interest of the prominently situated listed building within the Conservation Area is materially diminished, that the character and appearance of the Conservation Area as a whole is also similarly incrementally harmed.
15. As required by the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving the listed building and its setting, and I have paid special attention to preserving the character and appearance of the Conservation Area. In so doing, and in giving great weight to those designated heritage assets' conservation, the development has failed to preserve these attributes and consequently harms their significance.
16. This harm to significance is less than substantial in respect of both designated heritage assets in the terms of the National Planning Policy Framework (the Framework). These are circumstances where LP2 Policy DM16 and the Framework requires such harm to be balanced against the public benefits of the development. I recognise that by enabling the use of the roof safely that there will have been some economic benefit to the restaurant and consequently the local economy by being able to increase capacity, at least when weather permits. However, this benefit has not been captured or quantified and, in the absence of any evidence to the contrary, it is likely to be limited. Although the harm to significance of the designated heritage assets is of a modest nature, as this heritage harm carries considerable importance and weight, the public benefits of the development have not been shown to outweigh this harm.
17. The development is contrary to LP1 Policy SP7 and LP2 Policies ENV1, DM15 and DM16. Together, and amongst other criteria, these seek to conserve and

² Colchester Conservation Area No 4 – North Station Road & Environs, Conservation Area Appraisal – Consultation draft, 2018.

enhance the Borough's historic environment, require a high standard of design that responds positively to local character and context, and conserve the significance of heritage assets. LP2 Policy ENV1 has an overall historic environment conservation requirement albeit that its detailed criteria are substantially concerned with the natural environment. Despite there being no conflict with those criteria there is still conflict with the policy read as a whole. The commercial use and employment generating potential of the area enclosed is supported by some development plan policies. However, considered overall the development conflicts with the development plan.

18. The appeal must be determined in light of the up-to-date development plan and the fact that the Council have provided very little commentary on some of the policies and their predecessors beyond the decision notice has not altered this requirement.

Conclusion

19. For the above reasons the development fails to preserve the grade II listed building and the character and appearance of the Conservation Area, contrary to the Act, the development plan considered as a whole and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR