



Appeal Decisions

Site visit made on 28 June 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal A: APP/E2530/W/22/3306227

The Mad Turk, 8-9 St Pauls Street, Stamford PE9 2BE

- 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 T Qaku (The Mad Turk) against the decision of South Kesteven District Council.
 - The application Ref S22/0039, dated 6 January 2022, was refused by notice dated 17 March 2022.
 - The development proposed is described as 'Proposed Metal Framed Gazebo and associated timber framed storage area within the listed building curtilage to the rear courtyard'.
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Appeal B: APP/E2530/Y/22/3306225

The Mad Turk, 8-9 St Pauls Street, Stamford PE9 2BE

- 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 T Qaku (The Mad Turk) against the decision of South Kesteven District Council.
 - The application Ref S22/0040, dated 6 January 2022, was refused by notice dated 17 March 2022.
 - The works proposed are described as 'Proposed Metal Framed Gazebo and associated timber framed storage area within the listed building curtilage to the rear courtyard'.
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for metal framed gazebo and associated timber framed storage area to the rear courtyard at The Mad Turk, 8-9 St Pauls Street, Stamford PE9 2BE in accordance with the terms of the application, Ref S22/0039, dated 6 January 2022, and only the details shown on the drawing numbered 002, subject to the following conditions:
 - 1) Amplified or other music may only be played within the gazebo between 1100 and 2300 Monday - Sunday.
 - 2) Customers shall only be permitted within the gazebo between 1100 and 2300 Monday - Sunday.

Appeal B

2. The appeal is allowed and listed building consent is granted for metal framed gazebo and associated timber framed storage area to the rear courtyard at The Mad Turk, 8-9 St Pauls Street, Stamford PE9 2BE in accordance with the terms of the application Ref S22/0040, dated 6 January 2022, and only the details shown on the drawing numbered 002.

Procedural Matters

3. I have amended the description in the banner headings to omit superfluous information that does not form part of the description of development and works. The description is therefore for 'metal framed gazebo and associated timber framed storage area to the rear courtyard'. Furthermore, the appeals concern the same scheme under different, complementary legislation. I have dealt with the appeals on this basis together in my reasoning.
4. I observed on site the gazebo and storage area have been constructed, so I have determined the appeals on the basis the proposal has already occurred, having regard to the proposed drawing numbered 002 and other information.

Main Issues

5. The main issues are whether the proposal preserves a Grade II listed building, 8 and 9 St Paul's Street, and any of the features of special architectural or historic interest that it possesses; and the extent to which it preserves or enhances the character or appearance of the Stamford Conservation Area.

Reasons

Special Interest and Significance

6. The appeal property is a Grade II listed¹ two-storey building facing St Paul's Street, currently in use as a restaurant. It is likely of 15th Century origin and is of traditional vernacular construction, using stone, slate, and timber windows. The property includes rooms in its attic spaces and a perpendicular rear range. It is also situated within the Stamford Conservation Area (CA).
7. The listing description identifies that the building forms a group with Nos 7 to 17 (consecutive). The rear curtilages of the individual properties in the group are arranged within narrow burgage plots and there are rear wings of varied depth and proportions, and other extensions and new buildings behind the principal frontage buildings in St Paul's Street. Despite these, the significance of the burgage plots remains legible.
8. As far as it is relevant to the appeals before me, the special interest of the listed building is to be found in its architectural and historic interest, as a fine example of a 15th Century stone building arranged within a burgage plot.
9. The boundary of the CA closely follows the Medieval core and 19th and 20th Century residential expansion of the town, to the northeast, northwest and southwest, and includes the Town Meadows north of the river and the Parish of St Martin's to its south.
10. The site is within the Medieval Core Character Area, the grain of development of which is based on the complex and tightly knit pattern of east-west streets, derived from the 9th Century Danish settlement. The burgage plots prevalent around the listed building are a key characteristic of the area that remains intact. However, the quality of built development in this part of the CA is best illustrated by the high proportion of listed buildings, the rich variety of which contributes to the CA's character and appearance.

¹ Listing Number: 1062941.

11. The appeal property is close to other listed buildings, which demonstrates the site is situated within a highly sensitive historic context.
12. As far as it is relevant to the appeals before me, the significance of the CA is principally derived from the wealth of historic structures, particularly the consistent quality of the buildings situated in the Medieval Core, and their arrangement within burgage plots, all of which contributes to the character and appearance of Stamford as a historic market town.
13. The form and appearance of the listed building reinforces the traditional hierarchy between the higher status of the principal buildings fronting the east-west streets in the Medieval Core and the secondary elevations and wings to the rear. As the rear of the building and its plot are visible from neighbouring properties, the evidence and continued layout of the property in respect of its burgage plot also makes a positive contribution to the character and appearance of the CA and thereby to its understanding and significance. The other properties in the group at Nos 7-17 also similarly contribute.

The Proposal

14. The proposal concerns land within the rear courtyard of the listed building, within which an aluminium-framed gazebo has been constructed, with glazing to its walls, beneath an aluminium roof. It is used to supplement the restaurant dining area and to provide a bar and, while it is inset from the boundary enclosures to the side and rear, it occupies most of the courtyard.
15. The application drawings also include a timber framed store attached to the gazebo and a fenced enclosure to screen refuse and other private servicing areas. However, the storage building is joined to the listed building by further timber framing beneath a polycarbonate roof, which are referred to in the Design and Access Statement (D&AS) and Heritage Impact Assessment (HIA), but not on the proposed drawing.

Effect of the Proposed Polycarbonate Roof and Supporting Timber Frame

16. The timber framing and polycarbonate roof covering the area between the kitchen, timber store and gazebo is lower than the kitchen roof and largely a reversible element. Nevertheless, as illustrated by photographs in the D&AS and HIA, it is designed and constructed in a manner inferior to the higher quality design and construction of the other elements of the appeal scheme, including the enclosure for bins, which matches the timber store. While these parts of the proposal are not prominent within the public domain and only have limited prominence from the private domain, they are harmful to the special interest of the listed building.
17. Unlike listed buildings, the significance of a conservation area is more widely experienced. Accordingly, proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. In this case, the roof and its timber frame are not prominent within the CA. Hence, its character and appearance, as a whole, is preserved, along with its significance.
18. The statutory duties in Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the National Planning Policy Framework (the Framework).

19. Despite my findings in relation to the CA, the proposed polycarbonate roof and its supporting timber frame are harmful to the special interest of the listed building. This therefore harms its significance as a designated heritage asset and the harm identified equates to less than substantial harm to the asset. Framework paragraph 202 and policy EN6 of the South Kesteven District Council Local Plan 2011- 2036² (LP) identify this harm should be weighed against public benefits of proposals, including securing its optimum viable use.
20. The roof provides dry passage between the kitchen and gazebo. The other benefits stated by the appellant relate to returns to the business by additional covers available in the gazebo, which are not strictly related to the roof and its supporting frame. There is also no substantive evidence before me to suggest the effect of providing the roof to this area could not be achieved in a more sensitive manner that would respect the design, form, and materials of the other elements of the scheme and listed building. The cover also reduces visibility from nearby property of the bins and other paraphernalia stored beneath, but these are unlikely to be particularly prominent in any event given other screening. The effect of screening these from patrons of the restaurant is also achieved by the enclosures shown on the proposed drawing. For these reasons, I afford these benefits limited weight.
21. The appellant has suggested temporary permission and consent could be given for the proposal, but this also appears to focus on the gazebo, to which I do not assign harm (see below). In the case of the roof, I do not find this to be an appropriate course of action, as it would not remedy the harm caused by this aspect of the proposal. It would only serve to shorten the period that harm would be experienced, which should not be tolerated. Similarly, the use of conditions to secure alternative details would be unreasonable, as this part of the scheme is not shown on the application drawings.
22. Taking the above together, the stated public benefits would not justify allowing a proposal that fails to preserve the special interest of the listed building. In accordance with Framework paragraphs 199 and 202 and LP policy EN6, considered together, I am therefore not persuaded there would be wider public benefits of sufficient magnitude to outweigh the great weight to the asset's conservation and considerable importance and weight to the less than substantial harm identified to its significance.

Effect of the Proposed Gazebo and Timber Framed Storage Area

23. While the proposed gazebo and store are not visible from public vantage points, they can be experienced from many of the surrounding listed buildings. In particular, it is higher than most adjacent boundary enclosures, especially the wall to the east and fence to the west. However, the modern, simple, yet contrasting form of the gazebo and store are clearly read as contemporary and potentially largely reversible additions to the curtilage of the listed building, thus justifying the use of some non-traditional materials in this case. Furthermore, given their form and height, they do not compete with or distract from 8-9 St Paul's Street or the form of its burgage plot, as both remain legible from within the building's curtilage and its immediate surroundings. Moreover, the buildings are consistent with the established grain of development within the burgage plots of neighbouring buildings. For these reasons, these aspects of the appeal scheme preserve the listed building, as required by the Act.

² Adopted January 2020.

24. The gazebo and store are also not prominent within the public domain and only have limited prominence from the private domain. Hence, as required by the Act, the character and appearance of the CA, as a whole, is preserved and, with it, its significance.
25. There is no substantive evidence before me to suggest it would not be possible to regularly maintain and keep the gazebo and store in good condition, as one would expect with any building. Similarly, the gazebo is arranged parallel with surrounding walls, but their maintenance should be possible with it in situ.

Conclusion on the Main Issues

26. For the above reasons, I conclude that the polycarbonate roof and its supporting timber frame do not preserve the special architectural and historic interest of the listed building. Hence, they are contrary to the provisions of the Act, the design and heritage aims of LP policies DE1 and EN6, and Framework paragraphs 130, 197, 199 and 200.
27. Conversely, the gazebo, timber framed store and other elements shown on the proposed drawing, including fences, preserve the special architectural and historic interest of the listed building and significance of the CA. As such, they accord with the provisions of the Act and the above policies. As these parts of the appeal scheme are identified on the proposed drawing, they can be considered separate from the polycarbonate roof and timber supports, which are not. The former are therefore capable of being physically and functionally separated from the latter, so I can approve them based on the details shown on that drawing number 002.

Other Matters

28. As I noted above, the appeal property is situated within a group of listed buildings. I have therefore had regard to the statutory duty referred to in the Act. Given the nature of existing development within the burgage plots of those listed buildings, and the form, scale and appearance of the proposal and its physical relationship with these designated assets, their settings are preserved, and the proposal does not detract from them.
29. The existing courtyard has previously been used for external dining and the gazebo internalised this use. While the Council did not object to the proposal on grounds of noise and disturbance, its Environmental Health Officer (EHO) required restriction to the hours of use of the gazebo and playing of music within. Based on my assessment of the surrounding context, and comments of the EHO and other interested parties, I have imposed conditions restricting amplified or other music within the gazebo and its hours of use to between 1100 and 2300 on all days of the week. However, I first sought comments from the main parties to determine the suitability of such conditions.
30. The concerns identified by interested parties regarding fire safety need to be addressed through the Building Regulations and I have not been referred to any relevant policies that specifically address such matters.

Conditions

31. The proposal has already been carried out, therefore I have not included the standard commencement conditions for the appeals. For clarity, I have referred to the approved drawing in the effective part of the decisions, as this clearly

identifies what is approved. To protect the living conditions of neighbouring occupiers, I have also included the conditions referred to above on Appeal A.

Conclusion

32. The aspects of the proposal that I have found to be acceptable are those that are shown on the proposed drawing and those that I have attributed harm are clearly not shown. Accordingly, Appeals A and B can be allowed on this basis.

Paul Thompson

INSPECTOR