



Appeal Decisions

Site visit made on 17 October 2023

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal A: APP/N1160/Y/23/3315687

Phoenix Wharf, Pier Masters Office, Madeira Road, Plymouth PL1 2NX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mr Y Aziz of Pier Masters House Ltd against the decision of Plymouth City Council.
 - The application Ref 22/01688/LBC, dated 7 October 2022, was refused by notice dated 6 December 2022.
 - The works proposed are a canopy over external seating area.
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Appeal B: APP/N1160/W/23/3315677

Phoenix Wharf, Pier Masters Office, Madeira Road, Plymouth PL1 2NX

- 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 Y Aziz of Pier Masters House Ltd against the decision of Plymouth City Council.
 - The application Ref 22/01666/FUL, dated 4 October 2022, was refused by notice dated 6 December 2022.
 - The development proposed is an external seating and canopy used in association with the adjacent premises.
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Decisions

Appeal A: APP/N1160/Y/23/3315687

1. No further action need be taken on this appeal.

Appeal B: APP/N1160/W/23/3315677

2. The appeal is dismissed.

Preliminary Matters

3. The parties agree that the works subject of these appeals have been already undertaken. While I have determined the scheme in accordance with the submitted plans, I saw no material difference between what they illustrated and what was constructed on site.
4. The appeals seem to relate just to the erection of the canopy structure itself and the use of the area it encloses. Whilst the wharf on which the canopy stands appears to have been subject to various other works concerning, for example, resurfacing and the formation of stairs, those have not been identified as forming part of this scheme.

Main Issues

5. In relation to Appeal A the main issue is whether the works require listed building consent.
6. In relation to Appeal B the main issues are whether the development would
 - harm the significance of any adjacent listed buildings,
 - fail to preserve either the character or appearance of the Barbican Conservation Area and cause harm to the significance of that asset and
 - if harm would be caused to the significance of any designated heritage asset, whether that would be outweighed by public benefits.

Appeal A Reasons

7. The Pier Masters Office (listed as 'Madeira Road, Barbican, (East side) Mayflower Sailing Club', but also called the Pier Master's House in the submissions) is Grade II listed and stands on a projecting element of the quay. To its east, extending out further into the harbour at a slightly lower level is a wharf (also called a pontoon, a jetty and a pier at places in the submissions) and on this is the canopy subject of this appeal.
8. Under section 7 of the Act no works are to be executed for, amongst other things, the alteration or extension of a listed building in a manner that would affect its character as a building of special architectural or historic interest unless they are authorised. Section 1(5) of that same Act then defines a listed building as including (a) any object or structure fixed to the building or (b) any object or structure within the curtilage of the building that forms part of the land and has done so since before 1948.
9. The appellant contended that the wharf to which the canopy is attached is curtilage listed due to its shared history with the main building, and so the structure requires listed building consent for that reason. However, I have no evidence to show that it ever did form part of the curtilage to the Pier Masters Office. Indeed, whilst some of the activity on the wharf might have taken place there because of its proximity to the listed building, I would assume its use was principally due to it being part of the working harbour, rather like the other wharves and quays around. As such, I find the works do not comprise an extension or alteration to a structure within the curtilage of the listed building under section 1(5)(b) of the Act.
10. The canopy itself is not fixed directly to the listed building. Moreover, although the wharf is built on to the quay on which that property stands, the wharf and the quay are not features that are directly associated with and dependent upon the Pier Masters Office. Therefore, I consider this relationship does not mean that, as a consequence, the canopy can be deemed to be an object fixed to the listed building and so consent is not required by virtue of section 1(5)(a) of the Act.
11. Accordingly, on the evidence before me I conclude the works do not require listed building consent, and so no further action need be taken on this appeal.

Appeal B – Reasons

12. The Pier Masters Office is a former warehouse that dates from the early 19th Century, and may be the only remaining element of the Victualling Offices. Insofar as this appeal is concerned, an important aspect of its architectural and historic interest lies in its relationship to the harbour. It has a solid, relatively unostentatious appearance, as it is built of painted rubble with granite quoins, and it is sited on the edge of the quay with a principal elevation looking out over the wharf and the water beyond. Together, these aspects reflect its historic role in the operation of the harbour while the openness around it allows its appearance to be appreciated. Its setting therefore makes a positive contribution to its significance.
13. The site is also within the Barbican Conservation Area, which includes much of the historic harbour area and the older tight streets to the north-west. These very much define the character and appearance of the conservation area and add to its significance, by emphasising its historic maritime origins.
14. The canopy before me is a simple frame with retractable roofing and curtain walling, which allow it to be used as an outside seating area in connection with the Pier Masters Office even in inclement weather. As the 2 are not physically joined, the canopy would not cause harm to the actual fabric of the listed building. I accept that, when the roofing and walling is fully retracted the structure is as open as possible and so allows views through. Even in those circumstances though its basic functional form means it has very little design merit and relates poorly to its historic context. Rather, with its various columns and bars, it serves to clutter this wharf, thereby reducing the apparent role it has played over the years as part of the harbour complex. It also impedes views of the east side of the listed building, and diminishes its historic link to the wider harbour, partly by severing to some degree the strong relationship that would otherwise exist and partly by changing the character of the wharf.
15. Moreover, this harmful impact would be exacerbated when the roofing and curtain walling were not fully retracted, as the structure would then be visually more solid, thereby increasing its prominence. Indeed, when I visited some of the curtain walling and roofing had been opened out, and, while it includes see-through panels, they only partly occupy the sides and their nature and material mean they are obscured to some extent. As such, the presence of these panels does not allay the visual impact of this curtain walling and roofing.
16. For these reasons, I find the canopy's effect on the setting of the Grade II listed building fails to preserve its special architectural and historic interest, thereby causing harm, albeit less than substantial, to its significance as a designated heritage asset.
17. Turning to the impact on the conservation area, although the various boats, jetties, pontoons and associated paraphernalia currently create a certain clutter along the harbourside, given their maritime associations these nonetheless tend to respect the character and appearance of this historic designation and its significance. In contrast, this structure, which adds further clutter in a prominent and exposed position and changes the nature of the wharf, is not particularly of a design or form that is connected to maritime activity. As a result, its nature and location mean it does not preserve the character or appearance of the conservation area and, again, causes less than substantial harm to the significance of that asset.

18. In assessing this impact the structure may, no doubt, be easily removable, but I have no basis to consider that would occur once permission was granted. My attention was also drawn to the extension to the north at The Boathouse. In my opinion though that structure is a valid and considered design response to its location. It is also set well back from the water's edge against a wall, and so is far less prominent, while it does not dominate an area of quayside to the same degree. As a result, I find its effects on the conservation area are not comparable to the scheme before me.
19. Turning to the other buildings that I was told were listed in the vicinity, to the south is the Grade II listed Duttons Cafe. I understand that this was formerly an armoury and magazine dating from the mid-19th Century. This use is reflected in its solid walls, its limited openings and its position near to the harbour, and such matters contribute to its significance. However, it is some distance from the appeal site, with a car park in between, and is in an elevated position. As such, the effect of the scheme on its setting does not harm its significance.
20. To the north is the Grade II listed West Pier, which is over 200 years old and forms part of the harbour entrance. Insofar as this case is concerned, its setting within a complex of quays very much adds to its special architectural and historic interest, and contributes to its significance as a designated heritage asset. Again, this is an appreciable distance from the appeal site and separated by a variety of pontoons and gantries. Consequently, I once more find that the effect of the scheme on its setting does not harm its significance.
21. I was also referred to the Royal Citadel to the west, which is a Scheduled Monument and forms the eastern edge of The Hoe Conservation Area. As a 17th Century fort, its tall solid protective walling on elevated land dominates the southernmost finger of The Barbican Conservation Area, which contains the appeal site and runs between these walls and the harbour to the east. Given its scale, and mindful that the Pier Masters Office sits between the development and this monument, the proposal does not affect the setting of the Royal Citadel and does not harm its significance. Similarly, the presence of these walls and their concealing effects mean the scheme does not adversely affect the significance of The Hoe Conservation Area beyond or the various listed buildings within the Royal Citadel.
22. The *National Planning Policy Framework* (the Framework) states that great weight should be given to the conservation of a designated heritage asset, and any harm to its significance should require clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any such asset, that harm should be weighed against the public benefits.
23. The appellant has emphasised the economic benefits of this external all-weather seating to the operation of the business at the Pier Masters Office, and drawn attention to the support for tourism in and around the Barbican area that is found in Policy PLY21 of the *Plymouth and South West Devon Joint Local Plan*. I accept that securing a viable use in a listed building is a legitimate public benefit, but I have little evidence to support a finding that the development is necessary to allow the use of the Pier Masters Office to continue. As such, the weight it can be afforded is limited. Moreover, in this instance I consider that any compliance with Local Plan Policy PLY21, and any vibrancy the development brings, does not outweigh the conflict with Local Plan

Policy PLY20. This aims to improve the waterfront destinations by, among other things, strengthening The Barbican as a unique historic city quarter by focussing on heritage-led regeneration.

24. Accordingly I conclude the adverse effect of the development on the setting of the Pier Masters Office fails to preserve the architectural and historic interest of that listed building, while it also does not preserve the character or appearance of The Barbican Conservation Area, causing less than substantial harm to the significance of each of those designated heritage assets. In the absence of any public benefits to outweigh this harm, the scheme conflicts with Local Plan Policy DEV20 which seeks to protect and improve the quality of the built environment having regard to its historic value, with Local Plan Policy PLY20, and with the Framework.

Conclusion

25. I conclude that the appeal should be dismissed.

JP Sargent

INSPECTOR