



Appeal Decisions

Site visit made on 21 January 2020

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 February 2020

Appeal A Ref: APP/R3325/W/19/3239846

9 Fore Street, Chard, Somerset TA20 1PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Bradley Management against South Somerset District Council.
 - The application Ref 17/02734/FUL, is dated 16 May 2017.
 - The development proposed is alterations and change of use to create 3 flats from existing ground – 2nd floor offices and for use of 1st floor courtroom and rear ground floor shop for community/retail/office and café use.
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Appeal B Ref: APP/R3325/W/19/3239854

9 Fore Street, Chard, Somerset TA20 1PH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Bradley Management against South Somerset District Council.
 - The application Ref 17/02735/LBC is dated 16 May 2017.
 - The works proposed are alterations and change of use to create 3 flats from existing ground – 2nd floor offices and for use of 1st floor courtroom and rear ground floor shop for community/retail/office and café use.
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Decisions

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

Main Issues

2. The main issue, common to both appeals, is whether the proposed works and development would preserve the Grade I listed building or any features of special architectural or historic interest it possesses. In respect of Appeal A, the second issue is the effect the development would have on the living conditions of the future occupiers of the proposed flats, in regard to noise and disturbance.

Reasons – both appeals

3. The appeal concerns part of the Grade I listed building known as 'Waterloo House and Manor Court House' (list entry number 1197449). The statutory list description identifies the appeal building as being a house and courtroom, now

- shops and offices, dating from the late 16th/early 17th centuries with possible earlier origins and later, principally mid-19th century, alterations.
4. The appeal building's origins as a Tudor town house and courtroom are denoted by surviving architectural features and historic fabric from that period, including the barrel-vaulted courtroom, distinctive moulded plasterwork, timber panelling and window seats, and stone mullion windows. Within the appeal building, the grandest rooms occur towards the front and on the first floor, whilst on the second, the scale and intricacy of architectural features diminishes, providing less prestigious spaces.
 5. The appeal building has suffered from the effects of partitioning and decades of neglect through conversion to offices and a subsequent lack of use, it has survived as a rare example of a relatively high-status Tudor building that has retained a significant amount of its historic fabric, features, plan-form and integrity. Surviving historic architectural features, layouts and circulation routes all add to an understanding of the function and architectural hierarchy of the building, and reveal the building's evolution over time. Therein lies the building's special interest, which is implicit in its inclusion in the highest category of listed buildings of national significance.
 6. The appeal building occupies a prominent position in the Chard Conservation Area (CA). The CA is a town centre location, with a mix of commercial, civic and other uses. Its significance lies in its historic origins, the interrelationship of streets and spaces, and the diversity in the age and styles of buildings.
 7. The appeal building presents an attractive, clearly historic, frontage onto Fore Street. It also follows a linear, narrow plot that includes an arched and gated entrance and alleyway off Fore Street that reflects an historic route and plot structure of perhaps medieval origin. The change of use of the appeal building from residential to commercial is evidence of the historic evolution of the CA. It makes a valuable contribution to the built back cloth that underpins the evolution of Chard and therefore to the significance and special interest of the CA as a whole.
 8. The proposal is to keep the ground-floor front and second rooms in use as retail spaces; to use the courtroom space for an antique show room; and to convert the small room below for use as a café. The foremost aspect of the scheme would involve the creation of two one-bedroomed flats on the building's first floor and a third on the second floor.
 9. The proposal to convert the upper floors into three flats and the inevitable internal subdivision and autonomy of spaces this would entail, would compromise the legibility and integrity of its origins as a single, high-status townhouse. Further partitioning and sub-division on the first floor to create two very small flats would erode further legibility of its plan form and weaken the traditional hierarchy inherent within it. Furthermore, there would be an added degree of permanence and separation created between the two flats, involving additional sound and fire insulation and independent entrances. Moreover, the proposals on the first floor would introduce radiators in front of three of the historic timber window-seats, compromising their architectural interest.
 10. On the floor above, the staircase would be boarded over and a bathroom portioned off within the back-middle office; a rooflight inserted over the staircase. There would also be some loss of historic fabric associated with the

insertion of the rooflight, while legibility of circulation routes would be eroded through the removal or blocking up of staircases that are, if not original, at least historic survivals that signify the building's evolution. Some detail is provided show ventilation, waste and water, and service runs. These and other upgrades, such as providing for fire and sound attenuation Also, the upgrading of doors to provide necessary fire resistance would lead to a disruption of historic fabric. Within the courtroom, the proposed drawings do not show the existing staircase. This could be a draughting error, but, as shown, would cause further serious harm.

11. As a consequence of the proposal's impact on historic features, architectural hierarchy, plan-form and integrity, there can be no question that there would be some harm to the significance of the Grade I listed building, which would not be preserved. Given that historic buildings, including the appeal building, make a valuable contribute to the character and appearance of the CA, there would inevitably be some residual harmful effect on the CA as a whole.
12. Having regard to the circumstances of the case and given the nature and scale of the impact of the proposed works and development on the listed building and the CA, the harm to their significance as designated heritage assets would be less than substantial. Paragraph 194 of the Framework¹ requires clear and convincing justification for any harm to the significance of a designated heritage asset. Paragraph 196 also requires this harm be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
13. The appeal site has undergone several physical changes and the upper floors and rooms to the rear of the plot have stood empty and neglected for a number of years. The site unquestionably requires significant investment in order to secure any reasonable use and longer-term conservation. The scheme devised by the Council is not before me to consider. Pragmatically, any use would be likely to require some physical interventions.
14. The appeal site has been subject to market for sale and for rent, for office use for almost 20 years. In more recent years, however, there was a loss in momentum of the site's active marketing. I have not seen any evidence of the appeal site being marketed for sale at the most recent, 2018, valuation price. Whilst the appellant asserts that any future marketing of the appeal premises as offices would be a waste of time, without a much more recent and comprehensive marketing campaign, it is not possible to ascertain that the appeal site was marketed for commercial use, at a price that fairly reflected its condition and listed status.
15. At points during the period the appeal site was marketed, asking and letting prices were set above the estate agent's valuation and leasing the property was offered on a full repairing and insuring basis, contrary to the estate agent's recommendation. A too high asking price or placing the cost of repairing the building on the leaseholder could have deterred potential users or purchasers.
16. In terms of the viability of a 2-bedroomed conversion scheme, there have broad comparisons with 1 bedroomed flats in Chard. However, it is unclear whether these are comparable in terms of being in a listed building or such a central location. The detail of the build and development costs figures and how

¹ National Planning Policy Framework, Revised February 2019

they have been arrived are not comprehensive. Without much clearer figures and forecasts it is not possible to judge the credibility of the assertions made regarding viability.

17. There may well have been a down-turn in the commercial market in Chard during the years that the appeal site has been subject to marketing; and the offer for the whole of the building may not adequately reflect the value of the premises to the owners. However, the available evidence casts doubt over whether the appeal site was marketed appropriately, seeking to reach potential buyers who may have been willing to find a viable use for the site that still provides for its conservation. It is therefore not currently possible to ascertain that the appeal proposals would achieve the optimum viable use of the appeal site, while causing least harm to the significance of the asset.

Living conditions – Appeal A

18. There are refrigeration units associated with its use as a butcher's shop fixed to the neighbouring property, on its wall within the central courtyard. While there have been no recorded statutory complaints to Environmental Health relation to the extant units, I do not know what rooms the windows above the butcher's shop serve.
19. Under the current scheme, the bedroom for each flat would have windows that open onto the central courtyard. Even if the units are quieter than previous models, and the walls are of thick stone, the windows are single pane, and the units generate a low, audible hum. The noise from the refrigeration units would be likely to be intrusive in the quieter hours of late night and early morning, and during the summer when windows might be left open.
20. I therefore conclude that the proposal would fail to provide adequate living conditions for future occupiers of the three flats in respect of noise and disturbance. This runs contrary to Saved Policy EQ2 of the South Somerset Local Plan (2006 – 2028), adopted 2015 (LP) and to the Framework, insofar as these seek to ensure developments provide a good standard of amenity.

Planning balance and public benefits

21. There would be benefits associated with the delivery of three dwellings onto the open market, which would make a small but beneficial contribution to the housing supply and to the choice of homes in the District; the appeal site is well located to access a range of services, facilities and public transport options; and there would be economic benefits associated with the construction phase and future occupiers of the proposed dwellings feeding into the local economy and support services therein.
22. The sustained deterioration of the heritage asset has in all likelihood made costs of repair more expensive. I am aware that my decision will protract the fate of the appeal building, however, the presumptive desirability of preserving the asset and its setting must be given considerable importance and weight. If the appellant chooses to allow the decay of the building go un-checked, this would amount to the deliberate neglect of the asset.
23. I am unconvinced that the building's sub-division into three separate flats is the only and most sensitive way of ensuring its conservation. Therefore, the benefits of bringing the site into an active use and investing in its fabric would come at considerable cost in failing to preserve the Grade I listed building, the

CA, and in causing harm with respect to the living conditions of future occupiers.

24. Conflict therefore arises with the clear provisions of Sections 66(1) and 72(1) of the Act, the historic environment and design objectives of Saved Policies EQ2, EQ3, EQ7 as well as those of the National Planning Policy Framework, Revised February 2019 (the Framework).

Conclusion

25. For the reasons given above, and having considered all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

H Porter

INSPECTOR