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Your reference

Our reference (A) APP/R3515/A/87/69092
(B) APP/R3515/A/87/79791
Date (C) APP/R3515/E/87/802731

13 JUL 1988

Sir

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36 AND SCHEDULE 11
APPEALS BY HALIFAX BUILDING SOCIETY
APPLICATION NOS: 1/41/87, 1/629/87 AND 1/LB57/87

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector Mr J D Waldron BArch, MCD, MRTPI, RA, who held a local inquiry into your clients' appeals under Sections 36 and 56 and Schedules 9 and 11 of the Town and Country Planning Act 1971 against the decisions of the Ipswich Borough Council to:

- A. refuse planning permission for the change of use of a public house (with ancillary residential accommodation) to building society branch office.
- B. refuse planning permission for part demolition, internal and external alterations (including new shop front incorporating automatic teller machine) and erection of single storey and two storey extensions at rear; and
- C. refuse listed building consent for part demolition, internal and external alterations (including new shop front incorporating automatic teller machine) and erection of single storey and two storey extensions at rear; all at Mannings Public House, Cornhill, Ipswich, Suffolk.

A copy of the report is enclosed.

2. The Inspector's conclusions are reproduced in the annex to this letter. He recommended that the appeals be dismissed.
3. The Secretary of State considers that the main issues to be determined in these appeals are the preservation of the character of the Ipswich Central Conservation area and the effect of the proposed works upon the listed building.

APPEAL A

4. The Secretary of State has considered the appellants' view that the proposed change of use could lead to an increase in social activity in Cornhill and would not harm the character and appearance of the listed building in the setting of the many listed buildings of the area. However, he agrees with the Inspector that the use of No 8 as a public house with associated residential accommodation

is appropriate to its character and accords with paragraph 20 of Circular 8/87 as possibly its best use and that the proposed use would not be as appropriate. He also considers that the proposed change would be contrary to policy C1 of the Approved Structure Plan and Policy E1 of the Ipswich Central Area Local Plan.

APPEALS B & C

5. The Secretary of State notes that the proposed development would continue the process of incremental change to No 8 Cornhill and that much of the proposal would not be detrimental to the special architectural or historic interest of the building. However he agrees with the Inspector that the works to the ground floor of the listed building (described at paragraph 13.3 of the Inspector's report) would be detrimental to the special architectural or historic interest of the building and therefore contrary to Policy C2 of the Approved Structure Plan. He notes that your clients are prepared to modify the works should the necessity arise but agrees with the Inspector that it would not be appropriate to impose a condition which might overcome this problem.

6. For the reasons given above the Secretary of State agrees with the Inspector's conclusions and accepts his recommendation and he hereby dismisses your clients' appeals accordingly.

7. A separate note is attached to this letter, setting out the circumstances in which the validity of the Secretary of State's decisions may be challenged by the making of an application to the High Court.

I am Gentlemen
Your obedient Servant

K A HARDING

Authorised by the Secretary of State for the Environment
to sign in that behalf

INSPECTOR'S CONCLUSIONS

The appeal against the refusal of listed building consent Application No:
1/LB57/87

13.1 No 8 is of special architectural and historic interest primarily because of its old timber frame and because of its character as a modest building that has evolved on a small site in an historic town centre over many centuries. The building contributes considerably to the character and appearance of the Conservation Area. Even though the proposed works would be substantial relative to the size of the building they would continue the process of incremental change to No 8.

13.2 The rendered out-building at the rear of No 8 lies beyond the timber framed part of the building. I agree with the main parties that the demolition of the out-building would not harm the special interest of the listed building provided that suitable arrangements are made to give access to the attic within the timber framed part. The vaulted cellar, which might pre-date the rendered extension above it, is a feature of interest and could be retained. The inscription stone could be located elsewhere as suggested by the appellants. The toilet block at the side is mainly of fairly recent construction and is not a feature of special interest to the listed building. The adjacent bay window appears as an attractive, but not exceptional, C19 feature. The removal of the internal sub-divisions and fittings of the toilet block, and the removal of the bay window, would not significantly harm the special character of the listed building.

13.3 The proposals involve the removal of the existing structure on the ground floor between the toilets and the bar, the insertion of a beam spanning about 7.5m, and the removal of a metal column in the bar. Some of the oldest structure in the building could well be affected, which would cause harm to a feature of special architectural and historic interest. The creation of such a large clear space on the ground floor would not accord with the scale, form and character of the listed building. This aspect of the proposed scheme would seriously harm the character and integrity of the listed building.

13.4 The removal of the existing ground floor shop front (facade), which was erected recently, would not harm the special character of the building. Without a stallriser the proposed shop front would appear to be out of character with the remaining part of the front elevation. However I consider that a shop front of appropriate design and materials, and incorporating an ATM, would not harm the character of the listed building. The proposed pitched roof to the front dormer would seem to be wholly appropriate to the character of the listed building. Nevertheless it is good practice to keep alterations to a listed building to a minimum. Therefore it would be preferable to retain the existing flat head to the dormer.

13.5 The partitions to the store rooms above the kitchen appear to have been inserted some time after the erection of the main timber frame. The removal of the partitions would not harm the special architectural interest of the listed building.

13.6 Much of the special interest of the building derives from features and fittings dating from many periods. The plans generally do not indicate the extent to which these items would be affected. The loss of a significant number of the traditional features and fittings could harm the special character of the building and be contrary to advice in Appendix IV of Circular 8/87. However the appellants are prepared to retain or to reuse, as far as possible, items such as doors, floor boarding, floor tiles, fire surrounds and decorative plasterwork.

13.7 The loss of the small winding stair, that is adjacent to the chimney breast in the ground floor kitchen, would be detrimental to the character of the building. The appellants are prepared to retain this stair. The removal of the counter and backfitting in the bar, which appear to have been constructed fairly recently, would not harm the special interest of the building as a listed building.

13.8 Subject to the use of appropriate finishing materials and details of construction, the proposed side extension would blend in satisfactorily with the character of the listed building. The extension would not harm the character of the oak-panelled room if the windows remain intact as intended by the appellants. Subject to the use of appropriate materials and details of construction the new windows, which would face on to the courtyard, would accord with the scale and character of the building.

13.9 Although the rear extension would be fairly large relative to the size of No 8, it would accord with the traditional pattern of development of a long plot in the historic core of a long-established town. The scale and roof treatment of the rear extension would blend in satisfactorily with the appearance and character of the listed building and the other buildings in the Conservation Area. Although the courtyard would be considerably reduced in size it would not significantly harm the character or setting of the listed building providing the stone paving is retained.

13.10 The proposed works have been described in sufficient detail to assess the general impact of the proposals on the listed building as referred to in paragraph 112 of Circular 8/87. Except for the works to the ground floor, which are referred to in paragraph 13.3 above, the proposals would generally preserve the building, and the features of special architectural interest that it possesses, subject to the satisfactory resolution of matters of detail including the choice of finishing materials. These matters could reasonably be made the subject of conditions on a grant of listed building consent by virtue of Section 56(4B) of the Act.

13.11 However the proposed works, which are referred to at Paragraph 13.3, would seem to be contrary to national policy, which seeks to preserve listed buildings, and contrary to Policy G2 of the Proposed Amendments to the Suffolk County Structure Plan and to Policy E2 of the Ipswich Central Area Local Plan. To overcome the objection significant changes would be required to the submitted scheme in a commercially-valuable part of the building. Taking into account national policy at paragraph 112 of Circular 8/87, it would not seem appropriate to impose a condition with the aim of overcoming the objection, even though the appellants are prepared to modify the design in the light of what is found when the structure is exposed.

13.12 However, in the event of listed building consent being granted, it is suggested that, in addition to the normal time limiting condition, conditions should be imposed regarding:

(a) the approval by the local planning authority of (i) details of the internal alterations, (ii) details of the shopfront, (iii) details of the new windows and (iv) the choice of finishing materials.

(b) the reinstatement of the stone paving in the courtyard at the completion of the works.

(c) the retention of the flat head to the dormer on the front elevation.

(d) the provision of reasonable access to the Urban Archaeologist of Suffolk County Council during the course of the works.

The appeal against the refusal of planning permission Application No: I/41/87

13.13 The present use of No 8 appears to have evolved from its use for many generations as a dwelling with provision for the sale of alcoholic drinks. Over this period numerous changes have been made to the building. Therefore the use of No 8 as a public house with associated residential accommodation on most of the upper two floors seems to be wholly appropriate to the character of the listed building. It can possibly be considered as the best use for the listed building in accordance with national policy at paragraph 20 of Circular 8/87. The proposed use would not be as appropriate as the existing use to the character of the listed building.

13.14 Cornhill is a main focal point in the town centre. Its character derives from buildings mainly in non-retail uses. Westgate Street and Tavern Street, which lead into Cornhill, contain buildings predominantly in retail use. No 8, The Golden Lion Hotel and the Victoria Bar contribute to the vitality and attractiveness of Cornhill and the Conservation Area generally.

13.15 The use of No 8 as a building society branch office would relate well to the banks, the post office and the retail premises in the area and would not be contrary to any land use policy for the town centre. However the proposed change of use of No 8 would result in Cornhill becoming a less interesting and attractive place, especially during the evening, even if the Golden Lion is refurbished as intended by the owners of No 8. The proposed change of use of No 8 would not preserve or enhance the character of the Conservation Area as referred to in section 277(8) of the Act, and would be contrary to Policy C1 of the Proposed Amendments to the Suffolk County Structure Plan and to Policy E1 of the Ipswich Central Area Plan.

13.16 At the present time the means of access to the residential parts of No 8 can only be made by passing through areas of the property in commercial use. Although the residential use is of long standing, it appears that, by fact and degree, this use is now ancillary to the main use of the property as a public house; the property does not seem to be in a mixed use as a public house and as a dwelling. Consequently planning permission would not be required for the use of the residential accommodation in connection with the use of the property as a public house. Therefore the residential accommodation might not be considered as housing under Policy H1 of the Ipswich Central Area Plan. However the residential accommodation could well be considered to fall within the ambit of the Council's non-statutory Development Control Policies and Design Guidelines at paragraph 14.2 which specifically refers to residential accommodation associated with non-residential uses.

13.17 On the evidence it is considered unlikely that the residential accommodation in No 8 would be made self-contained in view of the Zone A space that would be lost in providing a separate access from the front.

13.18 No 8 could be used, without the need to obtain planning permission, for another purpose within class A3 (the food and drink class) or class A1 (shops class) of the Town and Country Planning (Use Classes) Order 1987. Another use within classes A3 and A1 might be marginally more appropriate, than the proposed use, to the character of the listed building. A use within class A3 might preserve the character of the Conservation Area to a slightly greater extent than the proposed use.

13.19 The evidence that No 8 would still have a financially viable future as a public house was not challenged at the inquiry. However, irrespective of the outcome of these appeals, the future use of No 8 has to be seen in the context of the plans of the owner. The owner was not represented at the inquiry. Taking into account all the circumstances in this case, I do not feel able to conclude, whether or not, on the balance of probability, the property would be likely to continue in use as a public house in the event of the appeals not being successful, which was the test applied in the case of Westminster City Council v British Waterways Board [1984] 3 All ER 737.

13.20 Although no evidence was given that No 8 is in a poor structural condition, the appellants would refurbish and maintain it to a very high standard, which is an important consideration in relation to its long term preservation.

13.21 The application for planning permission was not accompanied by any proposals for works to the listed building. In considering the effect of the proposed change of use on the listed building, in accordance with section 56(3) of the Act, it would seem to be unreasonable not to take into account the works which the appellants wish to undertake and which have been considered in relation to the appeal against the refusal of listed building consent. Although internal alterations are not normally subject to planning controls it appears that they can be by virtue of section 56(3).

13.22 A building society branch office might be considered as a use falling within class B1. Therefore, in the event of planning permission being granted, the suggested condition to restrict the use of the premises to class A2 would seem to be necessary to overcome the harm that would result to the character of Conservation Area if the premises were to be used in the future as a general room of office.

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13.23 The final sentence of paragraph 13.21 would also apply to this appeal. The effect of the proposed works on the listed building, and on the Conservation Area, have already been considered.