
Appeal Decisions

Site visit made on 18 October 2016

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 November 2016

Appeal No. 1: Appeal Ref: APP/X1165/W/16/3155549

Flat 1, Bramhope, Lower Warberry Road, Torquay, Devon TQ1 1QT

- 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 Drysdale against the decision of Torbay Council.
 - The application Ref P/2016/0315/PA, dated 29 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is replacement white 'woodgrain' uPVC double glazed windows.
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Appeal No. 2: Appeal Ref: APP/X1165/Y/16/3155558

Flat 1, Bramhope, Lower Warberry Road, Torquay, Devon TQ1 1QT

- 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 Mr Drysdale against the decision of Torbay Council.
 - The application Ref P/2016/0344/LB, dated 29 March 2016, was refused by notice dated 26 May 2016.
 - The works proposed are replacement white 'woodgrain' uPVC double glazed windows.
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Decisions

Appeal No. 1: Appeal Ref: APP/X1165/W/16/3155549

1. The appeal is dismissed.

Appeal No. 2: Appeal Ref: APP/X1165/Y/16/3155558

2. The appeal is dismissed.

Main Issues

3. These are a) whether the proposed works would preserve the Grade II listed building known as Bramhope or any features of special architectural interest that it possesses and b) whether they would preserve the character and appearance of the conservation area.

Reasons

The significance of the listed building and the effect of the proposal

4. Neither party, as anticipated by paragraphs 128 and 129 of the National Planning Policy Framework (henceforth referred to as the Framework), offers any meaningful insight into the special architectural or historic interest or significance of the listed building or indeed the Warberries Conservation Area. Whilst the Council suggest in the officer reports that the 'single storey bay-
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- window extension may be an addition to the original fabric', this is of limited assistance without setting such a statement in the context of a greater understanding of the development of the building as a whole.
5. Exceptionally, the list description is also of limited help in this regard, although it does offer a useful description of the eastern elevation and plan. However, in my view the date offered for the construction of the villa, indicated as being the 1870s, has to be treated with a degree of caution. Given Bramhope's location relatively close to the early C19 development of the resort behind the harbour and the still rather conservative plan form and relative restraint of the Italianate Neo-Classical detailing of the main range, I would put the date of the first phase of the villa as probably before c1850. This would also allow for a mid-later C19 date for the later projecting eastern wing on this elevation, corroborated by its differentiating detail.
 6. This leaves the single storey bay window on the south elevation which is the subject of this appeal. This is in fact part of the wider modelling of this garden-facing elevation that incorporates two further projecting oriel bays at first floor with a central window in between and two double door bays below. All of these components are characterised by a mullion and transom window arrangement with opening casements in elements of each. The central first floor and ground floor doors retain the architraves and bracketed cornice details of the pre-1850s modelling, though incorporating the later window arrangement.
 7. The ground and first floor bays however, though slightly degraded through inappropriate repair, express a much more exuberant Baroque classicism, with their dentil work and Pulvinated or cushioned friezes surviving at first floor. The mullion and transom window arrangement and the elongated Ovolo profile to the nibs of the mullions and transoms all reinforce this Neo-Baroque character. Lesser details also survive; the ironmongery attached to the frames strongly point to a system of adjustable blinds (unsurprising on a south elevation) that would have regulated light to the interior. The interior decoration of the bay and the room within, with bold fluted pilasters and floral friezes and cornices, reinforces the sense of a thorough reworking of both the south elevation and the rooms behind. Stylistically this strongly suggests a date for the remodelling of this part of the house to the late C19.
 8. The Appellant and the list description concur that the house was first subdivided in the 1950s and, no doubt, some of the more obvious consequences of subdivision, like the demarcation of separate ownerships, date from that time. Moreover, it is evident that the house as a whole has been subject to subsequent repair and alteration, not all of it sympathetic to its special architectural interest. A number of windows have been replaced with those fabricated in uPVC. The service range to the north has a number of such fixtures, whilst the Appellant drew my attention to a number of similar examples on the west elevation of the main range.
 9. The first floor oriel bays, and indeed the ground floor bay the subject of this appeal, have also been subject to degrees of repair and alteration. The ground floor bay looks to have had the entire entablature above the window head replaced, whilst the casements, fixed and opening, at least in part, accommodate double glazed sealed units within the frames. Despite the presence of these later features, none of the evidence presented by the parties

establishes whether these works are lawful, or have the benefit of listed building consent.

10. Nevertheless, despite these predations, the listed building as a whole still expresses a high degree of special architectural interest, not least in the very high value modifications to it over the course of the C19, underpinning its continued importance as a residence of some status. Therein principally lies its significance as a designated heritage asset. The south elevation, incorporating the fabric and interior fixtures of Flat 1 Bramhope, make an important contribution to that special interest and significance.
11. The proposals involve the total replacement of the bay window frame, including corner posts and mullions and transoms, and the fixed and opening casements both above and below the transom. The intention is to replace this with a unit of broadly the same configuration (albeit with a different arrangement of opening lights) formed in 'woodgrain' uPVC. The 'casement' frames would lap over the sub-frame elements and are formed with a broad central section with two chamfered margins, each standing proud of the sub-frame. No details are supplied as to what the 'woodgrain' effect might entail.
12. Although the proposed replacement window would replicate the broad form of the historic fixture with its mullion and transom arrangement and its colour finish, it could never be seen as more than superficially replicating the key attributes of the historic carpentry. The crisp profile of flush-fitting casements and the moulded mullion and transom nibs would be lost and replaced with casements of significantly broader frame profile, section and projection. The close-grained and painted texture of the historic carpentry would be lost to the synthetic 'effect' of the moulded uPVC material. Moreover, the proposals would result in the loss of a quantity of historic fabric that makes a significant contribution to the special interest of the building. Although evidently degraded in some parts, the window bay represents an example of high-grade workmanship, part of a wider remodelling of the south elevation, that continued to reflect the higher status of the house in the later C19. The loss of this fixture would thus significantly and materially erode the special architectural interest of the building.
13. Accordingly the proposed windows would lack both the constructional integrity and the important visual subtleties of texture that traditional carpentry methods and finishes offer. So clearly lacking in this regard, and accounting for the de facto loss of a significant degree of historic fabric, they would fail to preserve the special architectural interest of the listed building, contrary to the expectations of the Act¹, the desirability of which is a consideration the Courts have determined as a matter of considerable importance and weight. Moreover, it would fail to accord with the expectations of paragraph 132 of the Framework which anticipates great weight being afforded to the conservation of designated heritage assets. For the same reasons they would also conflict with local development plan policies, specifically SS10, HE1 and DE1, that seek to underpin these statutory and national policy objectives.

Effect on the conservation area

14. In my view if the special interest of a listed building within a conservation area is materially diminished, it follows that the character and appearance of that

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990.

conservation area in which the appeal property is set as a whole, is also similarly incrementally harmed. Whilst I would accept the works here are not prominently located within the public domain, and in the context of the conservation area as a whole are limited in scope, they would nevertheless still fail to preserve its character and appearance, and so be in conflict with the requirements of section 72 of the Act² and the aforementioned policies.

Planning balance and conclusion

15. In accord with paragraphs 133 and 134 of the Framework, it is for the decision maker, having identified harm to designated heritage assets, to consider the magnitude of that harm. In this case, in respect of both listed building and conservation area, I conclude this should be considered as less than substantial when assessed in the context of the significance of the assets as a whole. In such circumstances the Framework further requires that any identified harm is weighed against any public benefits the works might secure.
16. The appellant asserts an absence of harm, indicating the essentially similar attributes of the replacement fixture with that in situ. They also point to the presence of existing uPVC windows in the listed building as an indication that the present proposals be considered favourably. My attention was also drawn to areas of decay in the existing woodwork and water ingress within the bay in Flat 1 that suggested the works of replacement were justified.
17. However, for the reasons set out above, I have concluded that material harm would result from the proposals that would demonstrably diminish the special architectural interest of the listed building. Moreover, the presence of inappropriate modern replacement windows, whether lawful or otherwise, does not in my view justify the acceptance of the further harm inherent in these proposals. Furthermore, whilst there are localised areas of wood decay, specifically to the lower rails on the easternmost section of the frame, this is limited, and there is no evidence presented that demonstrates that this could not be rectified through selective repair rather than wholesale replacement. Indeed, whilst there was also evidence of water ingress within the bay, it was not clear that this was a result of the failure of the frame or perhaps the flat roof of the bay, which has already been the subject of unsympathetic repair.
18. Whilst the repair of the building, and thus the safeguarding of the asset may, in my view, be held to be a public benefit (albeit a very modest one) in the circumstances of this case, the significant harms identified above manifestly outweigh any such modest benefit.
19. Moreover, whilst in both cases the harm to the designated assets may be considered less than substantial, this should not be equated with less than substantial planning objection, particularly where the statutory duties to preserve the listed building and conservation area have not been met. Furthermore, the absence of any meaningful public benefits that might outweigh the identified harm further militates against the appeal succeeding.
20. For the reasons given above, and having considered all matters raised, I conclude that both appeals should fail.

David Morgan **Inspector**

² Ibid.