
Appeal Decisions

Site visit made on 15 November 2016

by J Flack BA Solicitor

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

Decision date: 30 November 2016

Appeal A: APP/C3105/W/16/3153230

1-2 St John's Place, South Bar Street, Banbury OX16 5HP

- 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 Liaquat Ali and Mr Riasat Ali Sadiq against the decision of Cherwell District Council.
 - The application Ref 16/00401/F dated 29 February 2016, was refused by notice dated 17 May 2016.
 - The development proposed is described as retention of existing extension including recladding and removal of window.
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Appeal B: APP/C3105/Y/16/3153231

1-2 St John's Place, South Bar Street, Banbury OX16 5HP

- 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 Liaquat Ali and Mr Riasat Ali Sadiq against the decision of Cherwell District Council.
 - The application Ref 16/00402/LB, dated 29 February 2016, was refused by notice dated 17 May 2016.
 - The works proposed are described as retention of existing extension including recladding and removal of window.
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Decisions

1. **Appeal A:** the appeal is dismissed.
2. **Appeal B:** the appeal is dismissed.

Preliminary matters

3. The descriptions of the proposed development and works given above follow those provided by the combined applications for planning permission and listed building consent, save that a reference to the insertion of a rooflight has been omitted in accordance with a revision to the applications made by the appellants prior to their determination. I have treated the applications as being for permission and consent for the carrying out of the described development and works, although noting that the extension referred to already exists.

Applications for costs

4. Applications for costs were made by Mr Liaquat Ali and Mr Riasat Ali Sadiq against Cherwell District Council. These applications are the subject of separate Decisions.

Main Issues

1. 1and 2 St John's Place (the appeal building) is a Grade II listed building (listed as Jervis and Partners) and is situated within the Banbury Conservation area. Accordingly, the main issues are a) whether the proposed development and works would preserve the listed building and b) whether or not they would preserve the character or appearance of the Conservation Area.

Reasons

5. The appeal building occupies a corner site at the junction of St John's Road with South Bar Street and Oxford Road. It dates from around 1830-1840. Constructed of brick, it was originally two houses, but I understand that planning permission and listed building consent were granted in 1979 (the 1979 scheme) to convert the building into flats and offices following a major fire in the late 1970s. I understand that the Building's listing has been downgraded from Grade II* to Grade II, but that this arose from the loss of the interior to the fire. Subsequently the building has been further converted following the grant of permission and consent in 2007 (the 2007 scheme). This scheme comprised the formation of four flats, together with the provision of the left hand ground floor room as a communal storage room. The appeal extension is accessed from this room, and is fitted out as a kitchenette.
6. It is clear that the principal interest of the appeal listed building lies in its front elevation. This takes advantage of its prominent position facing into South Bar Street, its sober and careful composition enlivened by classical detailing which includes stone voussoirs and pilasters at either end of the façade. However, the side elevations also make an important contribution to the building's significance. That facing Oxford Road is punctuated by windows which are consonant with the front elevation, although there is markedly less decorative detailing here. The other side elevation is adjacent to the boundary with St John's Priory School. The elevation and boundary are separated by a narrow alley, but this broadens behind the principal room as the side elevation steps back from the boundary from this point until its termination at the boundary with 1 Oxford Road. The appeal extension occupies this space. It is variously referred to by the parties as a rear extension and a side extension, but nothing turns on this as there is no doubt as to its extent and location.
7. Although the side elevation comprises plain brickwork, and was clearly not designed to have visual prominence, it is nevertheless an important element of the building's designed composition. Moreover, this elevation, together with the gap between it and the boundary, complements the front elevation by enabling a clear appreciation of the building's fundamentally simple and robust form. The gap also defines the relationship between the appeal listed building and St John's Priory School. This is particularly sensitive given that the School, together with its attached boundary walls, is also a Grade II listed building. It is an impressive structure, constructed of ironstone with gothic detailing, and the gap between the two buildings is important in distinguishing the buildings,

defining their relationship and facilitating appreciation of their very different characters.

8. It is not in dispute that the current extension does not benefit from listed building consent or planning permission. However, the recent history of the building is of some materiality to my assessment, and I note that the parties disagree as to whether there was a structure at ground floor level within the area occupied by the present extension at the time of the 2007 scheme. The Council's conservation officer states that there was no structure, but the appellant states that there was a timber structure with metal corrugated sheet roofing. However, I have not been provided with any supporting evidence to substantiate its existence, or concerning its height or form. Neither the existing or proposed ground floor plans of the 2007 scheme show any structure here, depicting instead a door opening into the courtyard area. As the appellant points out, these plans contain minor inaccuracies in the alignment of walls. However, this does not necessarily indicate that they possess more major errors, and in the context of a scheme of works to a listed building it would be surprising for the plans to omit a discrete element of the building which it was intended to retain. The appellant's heritage assessment includes the 1979 scheme's existing plan of the basement, which shows the correct alignment of walls, but the existing plan of the ground floor is not before me.
9. Altogether, I consider that the balance of the evidence provided to me is that at the time of the 2007 scheme there was no substantive structure within the area of the present extension at ground floor level. Moreover, there is no evidence of planning permission or listed building consent for any structure in this position, or that the appeal proposal represents the reinstatement of a lost original or early element of the building. It is not disputed that there was a room at basement level in this location, but even taking account of rising ground levels from the front to the rear of the building, it seems to me extremely unlikely that this room would have risen materially above the level of the current alleyway.
10. It is in this context that the impact of the appeal proposal is to be assessed. I understand that the appellants had previously erected a solid timber gate within the alley, but this is not now present and no gate is proposed. The elevation of the extension facing into the alleyway is faced with painted timber boarding and contains a window made of glass blocks. These materials are notably dissonant in the context of the listed building, but it is proposed to fill in the window and build a solid wall in brick, matching that of the appeal listed building, in front of the elevation. This would give the extension a more recessive appearance. However, the flat roof, which is finished with contemporary mineral surfaced felt, would remain. This has a somewhat crude and basic appearance, and is a jarringly modern feature in views from the staircase window.
11. In any case, I have more fundamental concerns. The alleyway would remain, and the proposed wall would conceal the extension in views from the street. However, the wall and the extension behind it would completely fill the wider gap beyond the alleyway, which at ground floor level would have complemented the gap at higher levels which is prominent and distinctive in views towards the listed buildings from South Bar Street. Although views of the extension would not be obtained from many angles, and only when close to the building, the extension would nevertheless harmfully disrupt the integrity of the

side elevation and the external form of the appeal listed building. In so finding I take into account that listed buildings are designated in the light of their inherent qualities, not the extent to which these can be appreciated by the public. The proposal would also unacceptably diminish the separation and relationship between the appeal building and St John's Priory School.

12. For the reasons given above, I conclude that the proposed development and works would fail to preserve the special architectural interest of the listed building, the desirability of which is a matter to which I am required to have special regard by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
13. Similarly, section 72 of the Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. I acknowledge that, as the appellants point out, the conservation area in the vicinity of the appeal building is characterised by buildings of widely differing forms, ages and styles which are either connected or in close juxtaposition. However, I have identified that there would be material harm to the appeal listed building, and this would be apparent in public views, although these would be limited. It follows that the proposal would diminish the positive contribution which the appeal listed building makes to the conservation area. I thus conclude that the proposal would fail to preserve the character and appearance of the conservation area.
14. For the purposes of the National Planning Policy Framework, the listed building and the conservation area are designated heritage assets. Within their overall context, I consider that the proposal would lead to less than substantial harm to the significance of each. Paragraph 134 of the Framework requires that such harm be weighed against the public benefits of the proposal. The appellants consider that the addition of a kitchenette would add to the utility of the communal store room, and thereby secure social, environmental and economic benefits. However, there is no suggestion that the flats do not have the kitchen facilities which one would expect and are shown on the 2007 scheme plans, and I do not see that the addition of kitchen facilities to the store room would materially increase its appeal or usefulness. Whilst the appellants state that the store room is underused, it is in good decorative order and there is no evidence to demonstrate that the absence of a kitchenette would result in undermining of the future beneficial use of the listed building. There is no also evidence that the proposal would result in any other material public benefit.
15. The Act requires that considerable importance and weight are to be given to the desirability of preserving the listed building and the conservation area: I conclude that the public benefits of the proposal are extremely limited and by some margin do not outweigh the material harm which would be caused to the designated heritage assets. Moreover, this conclusion is affirmed by the requirement of paragraph 132 of the Framework that great weight is to be given to the conservation of designated heritage assets: it follows that the proposal would be contrary to the historic environment policies of the Framework.
16. The proposal would be also be contrary to Policy ESD 15 of the 2015 Local Plan¹, which requires amongst other things that proposals conserve, sustain and enhance designated heritage assets. Furthermore, there would be conflict

¹ The Cherwell Local Plan 2011 – 3031 Part 1, adopted 20 July 2015

with saved Policy C18 of the 1996 Local Plan². The Policy is of considerable age and its rejection of extensions to listed buildings on the simple basis of whether they are minor is somewhat at odds with the Framework's approach of assessing impact. However, the Policy also requires extensions to be sympathetic to the architectural character of the building. That requirement seems to me consistent with the Framework, and the appeal proposal would not comply with it. Policies C28 and C30 of the 1996 Local Plan are general design policies which are not concerned specifically with listed buildings. Nevertheless, the appeal proposal would be contrary to their requirement that development be sympathetic to the character of its context. As these are the policies which are identified as being of relevance to the appeal proposal, I consider that it would not be in overall accordance with the development plan.

17. I have concluded that the proposal would fail to preserve the listed building, and that this is not outweighed by the very limited public benefits of the proposal. This is on its own sufficient for me to dismiss both appeals, although I have also concluded that the proposal would fail to preserve the character and appearance of the conservation area and that this too would not be outweighed by public benefits. I have taken into account all other matters raised by the evidence before me, but nothing arises which disturbs the above conclusions. The appeals are therefore dismissed.

J Flack

INSPECTOR

² Cherwell Local Plan, November 1996