The Planning Inspectorate

Appeal Decision

Site visit made on 9 May 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 22nd May 2017

Appeal Ref: APP/Z3825/Y/16/3164439
Monks Gate Cottage, Brighton Road, Monks Gate, Horsham RH13 6JD

- 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 Chris Equi against the decision of Horsham District Council.
- The application Ref DC/16/0992, dated 26 April 2016, was refused by the Council by notice dated 22 June 2016.
- The works proposed are regularisation of internal works to include cleaning of timbers and cutting-in of light fittings.

Decision

1. I allow the appeal and grant listed building consent for cleaning of timbers and cutting-in of light fittings at Monks Gate Cottage, Brighton Road, Monks Gate, Horsham RH13 6JD in accordance with the terms of the application Ref DC/16/0992, dated 26 April 2016 and the plans submitted with it.

Reasons

2. The building is listed Grade II and the main issue is the effect of the works on the architectural and historic significance of the listed building.

3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the latter Act requires special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. This duty is reflected in Policy 34 of the Horsham District Planning Framework which concerns cultural and heritage assets and recognises that they are an irreplaceable resource. The policy requires among other matters that proposals preserve and ensure clear legibility of locally distinctive vernacular building forms and their settings, features, fabric and materials.

4. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.

5. Notwithstanding the continuing evidence of carpenters' marks and candle burns, and the Council does not seek to disagree with the detailed and well-documented findings of the appellant in those respects, there is only limited evidence still in place of what would have been considered the 'original'

appearance had the cleaning works not gone ahead; there is reference to a dark stain having been applied previously. There appears doubt even over whether the cleaning was done post or pre-listing in 1980. The Council's approach is however correct in that an application should have been made before the event so that proposals could be assessed and if found likely to be acceptable, arrangements could be made for sample areas to be cleaned.

6. The loss of 'the patina of age' has reduced the historic interest of the building, although the architectural interest is less obviously affected, as the friable nature of parts of the timberwork may possibly be due to previous insect action. The frame is clearly still well able to function as intended and the part that each plays in the structural arrangement of the building remains obvious.

7. The conclusion is that there has been some slight loss of significance. Unfortunately the position now is that any loss cannot realistically be put back after the harm has occurred. Any attempt would be artificial and in itself harmful, lending a totally false history to the building; far better to leave the timberwork as it is to gain its own 'patina of age' in the long future that this building should have ahead. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

8. The Council's main concern appears to be contained in their Statement *'there is therefore the concern that in formally consenting these works, an undesirable precedent would be set for the use of invasive sandblasting at other historic buildings'.* However, it appears that the present appellant is not the person who carried out the works or caused them to be carried out, in contravention of section 7 of the 1990 Act as provided for in section 9, whereby a criminal offence *may* have occurred. The protection of listed buildings relies not just on the application of the listed building consent and enforcement regime, but on the prosecution of offenders. This Decision makes no further reference to that but the grant of consent does not remove the offence, if one occurred.

9. Therefore, no precedent should be read into this Decision, but it is desirable to 'draw a line' as the appellant had intended when first approaching the Council. To leave the works unauthorised could conceivably adversely affect the future beneficial use of the building at sale, which would not be in the public interest. The studies of the timberwork in the appellant's statement of case are a useful benchmark of the present condition and appearance of the timberwork. The matter of the cutting-in of light fittings is apparently agreeable to the Council and appears acceptable now.

10. To conclude in this unfortunate case, harm has occurred and cannot be made-good, but the grant of consent in these unusual circumstances is justified by the public benefit of the recording and a known benchmark for the building's condition, and of putting ownership on a firm footing for its future upkeep including by future owners who would not be deterred by an unresolved planning history.

S J Papworth

INSPECTOR