
Appeal Decisions

Site visit made on 13 June 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 06 July 2017

Appeal A: APP/H2733/W/16/3167753

27c The Crescent, Filey, North Yorkshire YO14 9JS

- 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 Mrs Patricia Lomax against the decision of Scarborough Borough Council.
 - The application Ref: 16/01817/HS, dated 5 September 2016, was refused by notice dated 1 December 2016.
 - The development proposed is to replace 2 sash windows to the front of the flat.
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Appeal B: APP/H2733/Y/16/3167758

27c The Crescent, Filey, North Yorkshire YO14 9JS

- 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 Mrs Patricia Lomax against the decision of Scarborough Borough Council.
 - The application Ref: 16/01895/LB, dated 14 September 2016, was refused by notice dated 1 December 2016.
 - The works proposed are to replace 2 sash windows to the front of the flat.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and listed building consent is refused to replace 2 sash windows to the front of the flat.

Preliminary Matters

3. As the proposal is in a conservation area and involves a listed building I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The Council has an emerging plan that is yet to be adopted. Consequently, this appeal will be determined in accordance with the extant development plan having regard to the emerging policies, insofar as they may be relevant, and the National Planning Policy Framework 2012 (the Framework).

Main Issues

5. The main issues are whether the proposal would preserve a Grade II listed building, 23-28 The Crescent (Ref: 1148189), and any of the features of special architectural or historic interest that it possesses and the extent to which it would preserve or enhance the character or appearance of the Filey Conservation Area.

Reasons

6. The appeal property is a second floor flat in a substantial, four storey terrace in the seaside town of Filey. It occupies a commanding position at the top of a slope that falls a short distance to the main sea front. The proposal would lead to the replacement of two, 1 over 1 wooden sash windows with uPVC sash windows of a broadly similar design. The appellant has indicated that the proposed replacement windows would be identical to the ones that have been installed at 35b The Crescent. This property is part of another terrace, of similar proportions, immediately to the south that is not listed.
7. The Filey Conservation Area (CA) was designated in 1977 and covers a small area of around 18 ha encompassing the historic sea front and an irregularly-shaped inland area including two ravines and formal public gardens. The oldest surviving houses date from the 17th and 18th centuries with a significant period of expansion occurring in the mid-19th century which has led to a more cohesive, unified appearance. The traditional window type is a sash window with pane configurations ranging between 8 over 8 and 2 over 2. The prominence of the grand terraces is such that their fenestration is a significant architectural feature that helps to define the character of the CA. Given the above, I find that the significance of the CA, insofar as it relates to this appeal, to be primarily associated with the traditional form of its windows.
8. The building was listed in 1985 and dates from around 1855. The design follows the Regency tradition with a rusticated ground floor with each bay articulated by giant pilasters. The bays are two windows wide with cornices on scrolled consoles characterising the window openings at first floor level and moulded architraves and sills characterising them at second floor level. A substantial moulded cornice separates the third floor windows, which are set back from the main elevation, with smaller openings and less ornate architraves. No original windows on the main elevation remain, with the majority having been replaced with wooden, slim profile double glazing units with a 2 over 2 pane configuration. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the architectural integrity of its principal elevation.
9. I observed that whilst the majority of window frames in the terrace are modern, they are nevertheless consistent with the design of historical, single glazed analogues in other buildings along the Crescent. I acknowledge that these windows are infrequent with many having been lost to highly unsympathetic, inappropriate replacement windows. I also accept that the appellant has attempted to find a window that broadly matches the windows that are currently present. However, I do not find the proposed replacements are the same in all respects because they would have a much bulkier appearance. In particular, their surrounds would be significantly thicker and their meeting rails would also be notably wider. As such, they would lack the finesse and elegance of the windows that they would replace and lead to a

highly unsympathetic, incongruent addition. Furthermore, their incongruence would be further emphasised by maintaining the 1 over 1 arrangement of the panes which is not consistent with the design of the majority of the windows on the front elevation of the terrace or, more generally, the remaining historic sash windows of the CA. As a result, the proposal would have a negative impact on the listed building and add to the cumulative impact of inappropriate uPVC windows that have been installed elsewhere. This would not be mitigated by the matching colour of the frames.

10. The appellant is of the opinion that the existing windows are unsafe and draughty and that the Council has acted inconsistently in giving planning permission for the windows at 35b. Whilst I accept that the windows may need to be replaced, I do not have any evidence before me as to why more sympathetic, alternative replacement windows cannot be installed that would better match the dominant window design of the listed building. Turning to 35b, this building is not listed and is therefore not directly comparable to this case despite also being in the CA. Furthermore, I am not aware of the circumstances of the permission that has been granted (Ref: 14/01845/HS) and do not have the full facts before me. As a consequence this matter only carries limited weight in the balance of this appeal.
11. Given the above, I find that the proposal would fail to preserve the special interest of the listed building and the significance of the CA. Consequently, I give these harms considerable importance and weight in the planning balance of this appeal.
12. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given that only two windows of the façade would be replaced, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the proposal would be beneficial because of the harm that would arise over time to the fabric of the building if the windows are not replaced in the longer term. However, I have no substantiated evidence before me that rule out either the repair of the existing windows or the use of more appropriately designed, wooden replacements. Consequently, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as it has an ongoing residential use that would not cease in its absence. In the absence of any substantiated evidence to the contrary neither would any public benefits accrue in relation to the CA.
13. Given the above I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building and the character or appearance of the Filey Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 134 of the Framework and conflict with policies E23 and E14 of the Scarborough Local Plan 1999 that seek, among other things, to ensure that alterations do not detract from the historic significance of a building and that replacement windows do not harm conservation areas or lead to the introduction of inauthentic materials on period properties. As a result the

proposal would not be in accordance with the development plan. It would also fail to adhere to the guidance set out in paragraph RMP 6 of the Filey Conservation Area Character Appraisal and Management Proposals 2012 that require all new development to be carried out using appropriate materials which, in the case of windows, comprises painted timber frames.

Conclusion

14. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

Roger Catchpole

INSPECTOR