
Appeal Decisions

Site visit made on 19 October 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 23 October 2017

Appeal A: APP/X2220/W/17/3180775

Corner Cottage, Minnis Way, Worth CT14 0DG

- 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 Mott against the decision of Dover District Council.
 - The application Ref DOV/16/01390, dated 2 December 2016, was refused by notice dated 31 January 2017.
 - The development proposed is to install replacement windows and doors.
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Appeal B: APP/X2220/Y/17/3174168

Corner Cottage, Minnis Way, Worth CT14 0DG

- 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 Mott against the decision of Dover District Council.
 - The application Ref DOV/16/01391, dated 2 December 2016, was refused by notice dated 30 January 2017.
 - The works proposed are to install replacement windows and doors.
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Decision Appeal A

1. I dismiss the appeal insofar as it relates to replacement windows. I allow the appeal insofar as it relates to items 22 - 24 and grant planning permission for replacement double doors and sidelights at Corner Cottage, Minnis Way, Worth CT14 0DG in accordance with the terms of the application, Ref DOV/16/01390, dated 2 December 2016, and subject to the following conditions;
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans; 30166392/8 of 9, and /9 of 9.

Decision Appeal B

2. I dismiss the appeal insofar as it relates to replacement windows. I allow the appeal insofar as it relates to items 22 - 24 and grant listed building consent for double doors and sidelights at Corner Cottage, Minnis Way, Worth CT14 0DG in accordance with the terms of the application, Ref DOV/16/01391, dated 2 December 2016, and the plans submitted with it namely 30166392/8 of 9, and /9 of 9, and subject to the following condition;
 - 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.

Reasons

3. The building is listed Grade II and lies within the Worth Conservation Area. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation.
4. There appears to have been some previous confusion over the significance of the existing windows and the nature of the harm alleged by the Council Officer. Nevertheless, the reasons for refusal are clear as to the harm being due to the double glazed windows. Nothing turns on this possible confusion as reported by the appellant as both appeals deal with the applications afresh, as if made to the Secretary of State in the first instance and are not bound by this or later decisions taken by the Council.
5. The existing windows are painted softwood with casement lights and small pane single glazing. There is a variety of glazing bar mouldings apparent and it is reasonably clear that the frames and casements are not historic items. It is possible that some of the casements have been altered or replaced over time. However, the opening arrangement and use of multi-pane windows together with the limited size of each window contributes substantially to the architectural significance of the building and whilst not original, the windows contribute also to the historic significance of the building and the conservation area.
6. If there is doubt over their age and the dates of any previous replacement, there is no doubt over the condition of the frames and more particularly the casements. There is extensive sign of water ingress to the timber, of swelling and of rot, with ineffective repairs having been carried out. Some windows are not capable of being opened, while in the case of others, if they are opened they would not be readily shut again. If left unattended-to there would be a risk of damage to the building through water or rot. Their state is not conducive to the preservation or presentation of the listed building and the conclusion is that they have reached the end of their useful life with replacement the only reasonable option.
7. It could be, depending on the date of listing and the date of the existing windows that like-for-like replacement would be acceptable. However, the appeal proposals are not like-for-like replacements since the drawings clearly show single-pane double glazed sealed units occupying the whole of the casement, the essential subdivision into multiple small panes being proposed by way of applied glazing bars inside and out, with a further bar set within the glazed cavity.
8. This arrangement has two significant drawbacks; firstly the use of single-panes removes the slightly varied reflections that are a feature of the current multiple, small panes, introducing a less historically correct appearance to the building, this being apparent from public views in front and to both sides along the façade; and secondly the three separate elements of each glazing bar

- would risk being seen as that, with a non-authentic jointing method and a gap at the glass width, apparent on closer views, the preservation of listed buildings not relying on public views.
9. Harm would be caused to the architectural and historic significance of the listed building and to the character and appearance of the conservation area. 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.
 10. Although the windows are in a poor state and are in need of replacement, there does not appear to be a real risk of the building falling out of its optimum viable use as a residence in this attractive location close to transport and other facilities. The care of listed buildings by private owners is a public benefit as is a reduction in energy use and the carbon footprint of the building. But, these considerations need to be balanced with the need to preserve designated heritage assets and the courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
 11. In that balance, the harm caused by the use of a single pane and applied glazing bars is not outweighed by the public benefits. As a result, the replacement windows would fail to satisfy the statutory tests in the 1990 Act and would not accord with paragraph 132 of the Framework. Both planning permission and listed building consent should be withheld for these works.
 12. That consideration does not apply to the double doors and sidelights, shown as items 22 to 24 on the drawings, as there is no existing subdivision, the present arrangement is of slim-section double glazing, and the design is not an historic one. The replacement of these items with new timber frames and wider-section sealed double glazed units would introduce to view a more obvious spacer, but only on closer inspection, and would not undermine the historic or architectural integrity of the building or its setting in the conservation area. The improvement in thermal performance of these large existing areas of glazing would be a public benefit that would outweigh any very limited harm. Planning permission and listed building consent can be granted for this work alone.
 13. For the reasons given above it is concluded that both appeals should be dismissed in part and allowed in part. Conditions are required only to set a time limit for the development and works, and in the case of the planning permission, a condition is required detailing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area. There is no provision for greater flexibility in listed building consents, it being sufficient to name the drawings in the formal consent.

S J Papworth

INSPECTOR