



Appeal Decision

Site visit made on 13 December 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/U1430/Y/19/3237348

Roche Gallery, 93 High Street, Rye TN31 7JN

- 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 Timothy Roche against the decision of Rother District Council.
 - The application Ref RR/2017/1097/L, dated 22 April 2017, was refused by notice dated 25 March 2019.
 - The works proposed are repair and insulation of roof of rear extension and replacement of slates with Kent peg tiles; slight change of pitch of roof to centre roof ridge over room below; replacement of rear hip with gable; addition of brown Velux roof lights. Internal insulation for walls; replacement of outhouse-type door to rear garden with patio doors. Levelling of concrete floor to same level as main building; insulation of floor. Slight change to footprint of extension where it joins main building to allow access via internal French doors instead of existing narrow passage.
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Decision

1. I allow the appeal and grant listed building consent for repair and insulation of roof of rear extension and replacement of slates with Kent peg tiles; slight change of pitch of roof to centre roof ridge over room below; replacement of rear hip with gable; addition of brown Velux roof lights. Internal insulation for walls; replacement of outhouse-type door to rear garden with patio doors. Levelling of concrete floor to same level as main building; insulation of floor. Slight change to footprint of extension where it joins main building to allow access via internal French doors instead of existing narrow passage at Roche Gallery, 93 High Street, Rye TN31 7JN in accordance with the terms of the application Ref RR/2017/1097/L, dated 22 April 2017 and submitted drawings 217/41-05A, 06A, 07A and 08A and subject to conditions 1) to 6) on the attached schedule.

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 building and its setting. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the primacy of the Development Plan do 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. These duties are reflected in Policy EN2 of the Rother Local Plan Core Strategy and Policy E3 of the Rye Neighbourhood Plan, which was 'made' on 8 July 2019. Paragraph 193 of the 2019 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.
3. The planning history is highly relevant to the current proposals as planning permission and listed building consent were granted in 2002 for the rebuilding of the rear kitchen extension with a first floor studio within a mansard roof, and those approvals would have brought about the complete removal of much of the construction that is the subject the current appeal proposals for less intrusive works (Refs: RR/2002/159/P and RR/2002/160/L).
 4. The Council are of the view that there have been changes to policy considerations in the meantime. In fact, the statutory requirement in section 16(2) of the 1990 Act referred to above has not changed, and whilst the Development Plan policies have changed, they and the contents of the Framework from its introduction in 2012, are material considerations only. There was extant guidance in Planning Policy Guidance Note '*Planning and the Historic Environment*' and the courts later clarified the term 'significant' as referring to quality rather than size, but the fact remains that the special architectural or historic features, wherever existing within the building, would have been identified and the 2002 decisions taken on that basis.
 5. The rear extension is in poor condition with slipped slates, and the rotten rafter feet and wall plates are particularly obvious among the defects listed by the appellant's architect. There are signs of these failings beginning to have a damaging effect on the internal finishes and use of this part of the building. There is a pressing need for repairs, but paragraph 191 of the Framework states that where there is evidence of deliberate neglect of a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. Whatever the reason for the deterioration, this Decision is based on the legislative and policy background rather than the present condition, although that condition may result from the original design and construction.
 6. Much has been made of the reasons for the asymmetrical roof and the apparent poor quality of construction. However, the subject extension displays limited architectural interest and while the method of construction demonstrates the historic development of the whole building, the significance of that history is low. There is no overriding requirement to reinstate poor details, rather there is a need to ensure the future wellbeing of the more significant main building and its setting within the conservation area.
 7. The proposed extension would rectify many of the shortcomings in the original design and construction while retaining the form of a subservient rear extension, and the junction of this and the more significant main building would be improved, with the resulting valley gutter more easily maintained. The proposal would be less intrusive to the architectural significance of the listed building than the two-storey scheme previously permitted and would have the public benefits of the continued wellbeing of the listed building as part of a group within the conservation area, and in assisting the viability of an independent retailer and gallery as a presence on the High Street.
 8. Those benefits substantially outweigh the limited 'less than substantial' harm of the loss of the asymmetrical roof and other original details and fabric. That finding is allowed for in paragraph 196 of the Framework which states that this level of harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

9. The Council has suggested a number of conditions in addition to the standard time limit for commencement, although it would be hoped that works would be undertaken sooner rather than later. There is no need to list the drawings for the avoidance of doubt as the provisions for greater flexibility in planning permissions do not apply to listed building consents, it being sufficient to list them in the formal consent. Similarly, the requirement to seek agreement over the use of pre-commencement conditions does not apply to listed building consents, and in order to safeguard the building it is reasonable and necessary to require each of the further details sought by the Council to be provided prior to any work starting.
10. In that connection, samples should be provided of external materials, together with larger-scale details of joinery, insulation and rainwater-goods, as well as a more detailed specification of the rooflights. There is no need to add a clause requiring the approved joinery details to be retained as any further works would require listed building consent notwithstanding the date of installation.
11. To conclude, the present arrangement is of limited significance and the small amount of harm is substantially outweighed by the benefits, such that the aims of the 1990 Act, the Framework and Policies EN2 and E3 would be met. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions

- 1) The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
- 2) The works hereby permitted shall not be commenced until samples of all new external materials have been submitted to and approved in writing by the Local Planning Authority and the works thereafter shall be carried out only in accordance with the approved details.
- 3) The works hereby permitted shall not be commenced until details of all new window and door joinery, at a scale of 1:10 elevations with full size sections through cills, frames, opening lights, glazing bars and mullions, and showing the relationship to the existing structure, have been submitted to and approved in writing by the Local Planning Authority and the works thereafter shall be carried out only in accordance with the approved details.
- 4) The works hereby permitted shall not be commenced until 1:10 scale sections through all external walls where it is proposed to alter the existing details to achieve better insulation, have been submitted to and approved in writing by the Local Planning Authority and the works thereafter shall be carried out only in accordance with the approved details.

- 5) The works hereby permitted shall not be commenced until details of all new rainwater goods, drawn to a scale of 1:5, indicating section sizes, profiles and method of fixing to the existing structure, have been submitted to and approved in writing by the Local Planning Authority and the works thereafter shall be carried out only in accordance with the approved details.
- 6) The works hereby permitted shall not be commenced until details of the new conservation rooflights, which shall include the relationship to the existing structure, have been submitted to and approved in writing by the Local Planning Authority and the works thereafter shall be carried out only in accordance with the approved details.