
Appeal Decisions

Site visit made on 29 January 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 6 February 2020

Appeal Ref: APP/B1740/W/19/3236440

100A High Street, Lymington, Hampshire SO41 9AP

- 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 Hossein Moghadam against the decision of New Forest District Council.
 - The application Ref 19/10454, dated 2 April 2019, was refused by notice dated 17 June 2019.
 - The development proposed is a brick wall, pier and gate; hard and soft landscaping; re-build part of boundary wall.
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Appeal Ref: APP/B1740/Y/19/3236445

100A High Street, Lymington, Hampshire SO41 9AP

- 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 Hossein Moghadam against the decision of New Forest District Council.
 - The application Ref 19/10455, dated 2 April 2019, was refused by notice dated 11 June 2019.
 - The works proposed are a brick wall and gate; hard and soft landscaping; re-build part of boundary wall; enlarge side access to western boundary wall; new window casements to rear elevation; tile hanging to rear elevation.
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Decisions

1. The appeals are dismissed insofar as they relate to the hard and soft landscaping and planning permission and listed building consent are refused. The appeals are allowed insofar as they relate to the rest of the development/works as set out above and planning permission and listed building consent are granted in accordance with the terms of the applications, Refs 19/10454 and 19/10455, dated 2 April 2019, subject to the following conditions:

(1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 and Section 18 of the Town & Country Planning (Listed Buildings & Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

(2) The development permitted shall be carried out in accordance with the following approved plans/drawings: Design, Access and Heritage Statement,

100A/JW/Location, 100A/JW/Block, 100A/JW/BW01, 100A/JW/BW02, 100A/JW/D&W-01e, 100A/JW/D&W-02c.

Reason: To ensure satisfactory provision of the development.

(3) Within 3 months of the date of this permission, a sample panel of brickwork showing the brick, bond, mortar and joint details for both the rebuilding of the boundary wall and the proposed wall around the patio to flat no. 1, and a sample of the tiles to be hung on the rear elevation of the building next to the casement windows shall be made available on site for the inspection and approval by the Local Planning Authority. Development shall take place within 3 months and in accordance with the approval of the details.

Reason: To protect the character and architectural interest of the Listed Building in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

(4) Within 3 months of the date of this permission, details at a scale of 1:10, of the proposed pedestrian gate in the boundary wall shall be submitted to, for approval in writing by, the Local Planning Authority. The works shall be implemented in accordance with the approved details and within 3 months of their approval.

Reason: To protect the character and architectural interest of the Listed Building in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

Main Issue

2. The main issue in both appeals is whether the proposed development/works would preserve this Grade II listed building (LB) and the character and appearance of the Lymington Conservation Area (CA).

Reasons

3. Statute requires that decision makers shall have special regard to the desirability of preserving LBs or their settings, and that special attention is paid within CAs to the desirability of preserving or enhancing the character or appearance of the area.¹
4. It is clear from the Council's submissions that it only has objections to three aspects of the proposals. First, the loss of the remaining base brickwork of the boundary wall to No 99 associated with the rebuilding of this section of the wall. Secondly, the retention of the casement windows on the main rear wall of the building and the cladding of the surrounding brick elevation with tiles. And thirdly, the retention of the hard and soft landscaping to the surface of the rear garden area. Consequently, I will confine myself to assessing these aspects of the proposals only.
5. The significance of this property as a LB is that it forms part of a listed symmetrical block of eighteenth-century facades to probably timber framed buildings with long rendered and brick rear ranges running back into these medieval burbage plots.

¹ S 16(2), 66(1) & 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

6. In terms of the boundary wall it is very unclear why the Council object to the removal of the base section of brickwork beyond it having existed for some time. The Council does not object to the repair and re-assembly of the main northern part of this wall and the building of a new brick pier using the retained bricks. Some of the base bricks that would be removed could be re-used for this work. Even if they were not, I cannot see any reason to rebuild this part of the wall simply because the base layer has been there a long time; it is not an important part of the LB's significance and behind it is the brick wall of the rear outbuilding to No 99.
7. I carefully inspected the windows in the first-floor kitchen and second floor bathroom of the flat in the main older part of the building, and the windows in the side facing elevation of the various rear extensions. The two rear elevation casement windows appear to be the same as those to many of the latter, for instance those to Flat 3.
8. I appreciate that they have replaced two deeper sash windows and that the base of the former window openings has been bricked up. However, I cannot see any fundamental objection to the design of these casement windows, notwithstanding their slightly thick glazing bars. They match the other windows in the rear extensions to the property and are in keeping with the general character of this group of LBs and other nearby buildings in the CA. Whilst I appreciate that the Council wishes the design of the previous sash windows to be reinstated it is unclear what these former windows looked like – I have not been provided with a drawing or photograph of such. Consequently, I consider these casement windows to be acceptable.
9. The Council also draw attention to the generally poor state of the brickwork on the rear elevation. But the brickwork immediately below the new windows appears to have been installed diligently. It is the other brickwork on the rest of the elevation that requires attention and it appears this has existed for some time. I also saw that there are clear remnants of tile hanging next to the new first floor kitchen window, which suggests there may well have been more tile hanging on this rear elevation for some time in the past.
10. I agree in principle with the Council that poor workmanship should not be rewarded – especially on a LB – by simply covering it up with hanging tiles or some other covering. But tile hanging is common in this part of the country and exists not only to the neighbour at No 99 but also on this elevation, and so would be quite acceptable here.
11. For these reasons, requiring the removal of the casement windows and the rebuilding of the whole of this rear elevation with second-hand bricks would, together with all the disruption to the occupants of the flat, be disproportionate and unnecessary. The retention of the casement windows and the installation of tile hanging to this elevation would be an acceptable solution.
12. However, the hard and soft landscaping that has occurred in the rear garden area is unacceptable. It would seem that the cheapest possible manufactured tiles have been used for the rear garden; they are shiny and unnatural looking. They even butt up against the LB because they are also laid on the step up to Flat 1. Natural stone should be used. The use of plastic grass is also tacky and inappropriate: real grass should be used, or soft planting introduced.

13. This is an important LB in the oldest and most important part of the CA and the landscaping materials used should be appropriate to its important status. The current shiny manufactured paving and plastic grass are clearly inappropriate because they harm the LB's setting and fail to preserve the appearance of the CA. In this context, Figure 2 in the appellant's grounds of appeal shows the previous naturalness of the rear garden (albeit in an overgrown state); its current appearance compares unfavourably to that natural state.
14. Policy CS2 of the New Forest District Council Core Strategy requires new development to be well designed to respect the character, identity and context of the District. Policy DM1 of the new Forest District Council Local Plan Part 2 essentially requires heritage assets and their settings to be conserved and applies the statutory requirements set out above. For the reasons set out above the hard and soft landscaping that has been carried out fails to comply with these Policies, whereas the other works do comply with them.
15. For these reasons this aspect of the proposals is unacceptable, whereas the rest of the development/works would be acceptable. I therefore dismiss this aspect of the scheme and allow the remaining elements, as set out above, subject to the above conditions recommended by the Council, which are necessary for the reasons set out.

Nick Fagan

INSPECTOR