
Appeal Decisions

Site visit made on 11 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 25 August 2020

Appeal A: APP/C1435/Y/20/3251739

Appeal B: APP/C1435/Y/20/3251740

Highlands House, Holtye Common, Holtye, Cowden TN8 7ED

- Both appeals are made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against refusals to grant listed building consent.
 - The appeals are made by Mrs Clare Brown against the decisions of Wealden District Council.
 - In Appeal A the application Ref WD/2019/2690/LB, dated 19 December 2019, was refused by notice dated 21 April 2020 and the works proposed are installation of oil-fired boilers to 2no. external store rooms with flues through modified timber doors.
 - In Appeal B the application Ref WD/2019/2686/LB, dated 17 December 2019, was refused by notice dated 23 April 2020 and the works proposed are internal alterations, insulation of floors.
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Decisions

1. I dismiss both appeals.

Main Issue

2. In both appeals the main issue is the effect of the proposal on the significance of the listed building.

Reasons

3. 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 EN27 of the Wealden Local Plan 1998, but on design more generally, and Objective SPO2 of the Wealden Core Strategy Local Plan 2013 which is specific to the historic environment. Chapter 12 of the Wealden Design Guide 2008 concerns alteration and extensions to listed buildings.
4. 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.

Appeal A, works to install boilers

5. There is agreement as to the high energy costs associated with the building, and from the site inspection this can be attributed to a significant degree to the

- nature of the fabric, and arrangement of the roofs with sloping ceilings, as well as the substantial ratio of outside wall to floor area. This cost and the resulting low comfort conditions is stated to be the reason for the cottages being vacant, a situation that is not in the best interests of the listed building.
6. Reference has been made to previous approvals in 2013 and 2015 and the Council gives reasons why these now lapsed consents should not be considered as precedents. Whatever the Council's position on the decisions of Officers at that time, the appointed Inspector is not bound by them but must determine a listed building consent appeal anew in line with legislation, together with national and local policy as material considerations.
 7. The Council do however provide details of extant approvals already given for secondary double glazing, insulation of the sloping ceilings and the installation of air source heat pumps. Consent reference WD/2019/1473/LB has been given for the installation of oil fire boilers in a non-listed outbuilding with underground insulated pipe runs to the cottages. Reference is made to alternative external locations also.
 8. There is no objection to the location of the boilers as proposed, and they would be close to each cottage as a result with only minimal internal pipe runs required. The method of venting the flues through a fixed dummy panel formed from part of the present doors is the source of the objection.
 9. The architectural and historic significance of the building may be somewhat affected by it being ancillary to the main house, but it displays many attractive details and together with the overall massing indicates that considerable thought was put into the design and layout. The significance includes a range of minor details that together make up a well-considered whole, and with reference to doors, there is a clear hierarchy of intended use. As agreed by the appellant, the ironmongery contributes substantially to the value of the east door in particular and is consistent with the detailing of similar items on doors and windows throughout. The basic ledged and boarded doors are of interest and do appear to be original to the cottages.
 10. The proposed works would disrupt the appearance of the doors, no matter if the join could be made as unobtrusive as possible and the addition of a replica hinge would appear out of balance and contrived. The projection of the flue would appear as an alien item in a door and the proposed arrangement would cause harm to the architectural significance of the building and even with an element of reversibility, would harm the historic fabric. The location of the doors relative to public views does not mitigate the harm as the preservation of listed buildings does not rely on a public view.
 11. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 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. As advised in the web-based Planning Practice Guidance, Paragraph: 018 Reference ID: 18a-018-20190723 that within each category of harm, the extent of the harm may vary and should be clearly articulated. In this case, the harm would be only a moderate way along the long 'less than substantial' scale.
 12. The appellant refers to 2 linked objectives; to improve the thermal performance of the building and to be able to maintain adequate comfort

conditions, which is considered more in Appeal B, with a further benefit that new oil-fired boilers would be cheaper to run to that end than the electric system. There is evidence of the previous use of wood burning appliances and these were stated in Condition 3 of consent WD/2019/1473/LB as being able to be removed. They may indicate the existence of a viable flue-run.

13. There would be a public benefit in the building being in a viable use, previous tenants having left due to high energy bills and low comfort, with no replacements having been found. In addition, the effective heating of the building would ensure its conservation and guard against deterioration. Furthermore, the viable use of the building as 2 dwellings would assist in providing actual, as opposed to theoretical, housing supply.
14. However, it is not clear that the proposed works are essential to that end, with alternatives having been explored, and even if there are good reasons why boilers should be sited internally or even inside the stores, it is unclear whether a less intrusive, but equally reversible alternative flue siting could be used. It is concluded that the works would harm the significance of the listed building contrary to the statutory duty in the 1990 Act and local and national policy previously stated, and that public benefits do not outweigh that harm.

Appeal B, Internal Works

15. It is clear from the sample March to December 2011 electricity bill and the Energy Performance Certificates, together with the U-Value calculations, that the thermal performance of the fabric is poor. Certain improvements have been approved under reference WD/2019/1473/LB and the Officer's Report details the discussions which led to that being an acceptable scheme. One of the items removed from that scheme is now the subject of Appeal B.
16. The fact of an uninsulated solid ground floor is not an uncommon situation, and where it is desirable and cost-effective to retro-fit insulation there are 2 options and both would adversely affect the floor finish. Laying insulation on top of the present level causes problems with levels and would be unacceptable, whereas the chosen method preserves the levels and has the advantage of the screed providing a thermal flywheel effect and allowing tiles to be replaced.
17. There would be the likely loss of tiles due to their current method of bedding, but there are areas of lost tiles already and the consented internal rearranging of walls would cause further loss. It is conceivable that some re-use could be arranged by condition, but this is apparently untried, and in any event, a quantity of new tiles would be required.
18. The tiles are plain black and do not make use of any 'special' tiles such as coves or skirtings, those being painted timber and the steps or thresholds seen were also timber. The intended replacement seen as a sample at the site inspection appears a good match and is said to be the same composition. There would therefore be little if any change to appearance and this Decision rests substantially on the historic and evidential value to be placed on the original tiles and the necessity for their removal.
19. The tiles do have substantial evidential value as being those specified originally and their plain appearance was no-doubt a deliberate statement as to the status of the building, with the attractive detailing of door and window ironmongery being an understated feature in this otherwise utilitarian interior.

There is an unacceptable risk of loss, and harm would be caused to the significance of the building. As with the conclusions in Appeal A, not only would that harm be 'less than substantial' but would be only a little way along that range. Nevertheless, as stated in the Framework, great weight should be given to the asset's conservation, and public benefits should be commensurate with the level of harm.

20. In this case there are apparently no better alternatives if insulation is to be added, but the monetary value of that insulation is disputed by the Council. Whilst the U-value informs of the heat loss per square metre per degree temperature difference, the actual loss would vary according to the plan shape and hence the distance from true external temperature. In this case the building is long and relatively thin, so that the loss would be more than a deep-plan square building of the same floor area. Nevertheless, and allowing for the limited possibilities for adding insulation elsewhere, the costs saving mentioned by the appellant appear high, and could be reduced further by a cheaper heat source.
21. In terms of comfort, a cold floor can act as a large cold radiator, the corollary of the advantages of under floor heating, but with the works to the roof void insulation and windows previously approved, the difference in comfort conditions would be limited.
22. The other consideration referred to is damp, and efflorescence was seen on some, but certainly not all tiles. These salt deposits may result from the application of chemicals, either in sealing or cleaning and with a concrete slab below are not necessarily an indication of damp. If there is a localised breakdown of the bituminous bedding material, that should be investigated and solved locally.
23. Some intervention and investment is required to encourage residential use and to ensure that tenants feel able to stay, but the wholesale removal of the tiles is not justified by the public benefits and the harm would be contrary to statute and policy.

Conclusions

24. Works have been consented which would go a long way in improving the comfort and costs of living in these cottages, and the Council have determined that they are justified by benefits. There may well be further public benefits from the works sought in these appeals, but the harm that they would cause is not outweighed by public benefits or otherwise justified, and for the reasons given above it is concluded that both appeals should fail.

S J Papworth

INSPECTOR