
Appeal Decision

Site visit made on 17 July 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 01 September 2020

Appeal Ref: APP/D1265/Y/20/3251342

Hayes Cottage, The Hayes, Broadwindsor, Dorset DT8 3QF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Mrs R Yarde against the decision of Dorset Council.
 - The application Ref WD/D/18/002974, dated 18 December 2018, was refused by notice dated 23 October 2019.
 - The works proposed are described as realign existing gate and railings and carry out external alterations to form vehicular access and parking space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This decision concerns an appeal against the Council's refusal of an application for listed building consent. Insofar as the works would involve erection and alteration of a means of enclosure within the curtilage of/surrounding a listed building, the submissions do not indicate that a related application for planning permission exists. It is not the purpose of this decision to consider the potential merits of such an application were it to be made.
3. The proposed works are not described on the application form. This simply references the creation of a parking space. In the interests of precision, I have therefore used the Council's description in the banner heading above.
4. The appeal property is Hayes Cottage, which directly adjoins and was formerly part of Hayes Farmhouse. The 'listed building' in this case is made up of both properties, listed at Grade II under the name Hayes Farmhouse. Any further reference to Hayes Farmhouse within this decision will however be to the part of the listed building currently known by that name.
5. The Council made its decision on the basis of amended plans showing a revised scheme of enclosure, including relocation of the existing gate. I have also made my decision on the basis of the amended plans.
6. The application was made to Weymouth and Portland Borough Council, which merged with other local planning authorities to become Dorset Council in April 2019. Dorset Council is therefore named in the banner heading above.

Main Issue

7. The main issue is whether the proposal would preserve the listed building, its setting, or any of the features of special architectural or historic interest that it possesses.

Reasons

8. Insofar as it relates to this appeal, the special interest and significance of the listed building resides in its early nineteenth century date, and formal architectural design; featuring dressed stone walls and sash windows, and a linear plan consisting of a principal range within which the main historic entrance is located, and a more compactly scaled attached range which features only windows in its front elevation. Hayes Cottage is the latter.
9. For the purposes of the Act, a listed building includes any structure that is within its curtilage which has existed since before 1st July 1948. The railings and gate subject of the proposal fall within the curtilage of the listed building and have a principal and accessory relationship to it. Their considerable age is not in dispute, and I see no reason to reach a different view. Consequently, the railings and gate are listed.
10. The railings enclose a garden space in front of Hayes Cottage. They are of simple design and set within panels which terminate in a matching gate with posts. The railings also extend part the way across the frontage of Hayes Farmhouse, though space here is now largely unenclosed. As an apparently original means of enclosure forming part of the formal design, the railings and gate contribute to the special interest and significance of the listed building.
11. Notwithstanding the fact that the railings are covered by hedging in some places, both they and the gate serve an important historic function in differentiating private from public space; in this case separating the front garden from the driveway, and a public right of way which runs across the front. In this way they make an important positive contribution to the way in which the listed building is perceived within its setting. This is further accentuated by the intactness of enclosure across the frontage of Hayes Cottage, relative to the loss of enclosure across the front of Hayes Farmhouse.
12. The proposed works would involve moving a section of the railings and the gate, and thus they would no longer occupy their historic positions. Their rearrangement in such a way as to define a splayed parking space, would furthermore change the way in which their function and context was perceived. Indeed, if altered as proposed, the railings and gate would subsequently be viewed as subordinate features of a modern frontage layout configured to enable parking. This impression would be reinforced by the additional new sections of railing that would be required to make up the shortfall, the appearance of which would inevitably differ from that of retained historic material, and the much less well-defined relationship between private and public space that would result. In these ways the contribution that the railings and gate currently make to the special interest and significance of the listed building, including its setting, would be greatly diminished.
13. The decision notice also makes reference to hardstanding, and the impact that this would have on the setting of the listed building. However, notwithstanding the effect that this or any substitute finish may have on perception of the

above effects, the installation of hardstanding would not in itself entail works of demolition, alteration or extension of the listed building. As this is the basis upon which listed building consent is required, this matter falls outside the scope of the application subject of this appeal. In this regard the duty set out in Section 66(1) of the Act is also not applicable, as this only relates to applications for planning permission.

14. With reference to paragraph 196 of the National Planning Policy Framework (the Framework), I find that, for the reasons outlined above, the proposal would cause less than substantial harm to the significance of the listed building. I attach great weight to the harm that would be caused. In accordance with paragraph 196 it is necessary to balance this harm against the public benefits advanced in favour of the appeal scheme.
15. The main considerations advanced in favour of the proposal are that it would enable the removal a parked car from the frontage, lead to the restoration of the railings, and enable improved access for an elderly and infirm occupant.
16. The proposal would not, as a matter of fact, result in the removal of parking from the frontage. This is because the whole purpose of the proposed works is to enable a car to park within the current front garden. This consideration does not therefore attract weight in favour of the scheme.
17. No specification of works to the railings and gate has been provided, and thus the extent to which they would or could be 'restored' or 'refurbished' as part of the proposal is uncertain. Moreover, either could take place without any need for the historic layout to change. This consideration does therefore attract weight in favour of the scheme.
18. In view of the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have had due regard under Section 149 of the EA 2010 to the requirement to take steps to meet the needs of persons who share a protected characteristic. Access would remain through the current gate, albeit in a different location, and travel distance to and from the property would only be very marginally reduced. The parking space would be 'off-road', but the road itself is a driveway. Even taking into account the public right of way, the driveway does not appear to see particularly heavy use. Whilst the overall convenience of parking arrangements would no doubt see a slight improvement, for the above reasons I am not convinced that it would adversely impact upon, or fail to meet the needs of a person sharing a protected characteristic if the works did not take place. This consideration does not therefore attract weight in favour of the scheme.
19. Business would be generated for individuals undertaking the proposed works. The scale of any related economic benefit would however be very small. Consequently the public benefits of the scheme would be clearly insufficient to outweigh the harm that would be caused to the significance of the listed building.
20. For the reasons outlined above I conclude that the proposal would not preserve the special architectural or historic interest of the listed building, or its setting. It would thus fail to satisfy the requirements of the Act; heritage policy set out within the Framework; and, insofar as it is relevant, Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan 2015 (the LP), which, though drafted with particular reference to 'development', nonetheless requires

applications affecting the significance of a heritage asset to demonstrate how the proposals would positively contribute to the asset's conservation.

Other Matters

21. The site is located in Broadwindsor Conservation Area (the Conservation Area). This is addressed by both parties within their submissions. However, the Council reached no specific conclusion on what effect the proposal would have when it determined the application, and no reference was made to it within the decision notice. In view of the duty set out in Section 72(1) of the Act, it is nonetheless necessary for me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
22. Insofar as it relates this appeal, the significance of the Conservation Area resides in the historic layout of the village, and the collection and interrelationship of historic buildings and spaces it contains. Within this context the historic enclosure, distinction and definition of space plays an important role.
23. I have not been provided with a copy of the Broadwindsor Conservation Area Appraisal, however both parties refer to the fact that the railings are noted within it, and described as providing a significant example of enclosure. For this reason, and on account of the role they play in relation the listed building, the railings and gate positively contribute to the significance of the Conservation Area. This contribution is clearly appreciable from within the public realm.
24. As considered above in relation to the listed building, the change in the position of the railings and gate, and the consequent change in perception of enclosure, and definition of space, would be broadly experienced within the surrounding context of the Conservation Area. The effect that this would have on the contribution the railings and gate make to the significance of the Conservation Area would be similarly harmful. The harm caused would again be less than substantial, but in this instance, it would attract considerable importance and weight.
25. I am mindful of the fact that the effect of the proposal on the Conservation Area was not a reason for refusal of consent. However, notwithstanding the additional weight that the identified harm lends in favour of dismissing the appeal, this does not alter the outcome of my findings in relation to paragraph 196 of the Framework set out above. Similarly, the additional conflict that a failure to preserve or enhance the character or appearance of the Conservation Area would cause in relation to the Act, the Framework and Policy ENV4 of the LP, does not alter the outcome of my conclusion in relation to the main issue. As such the matter is not determinative of the outcome of this appeal. I am therefore satisfied that the interests of neither party are prejudiced by my findings.

Conclusion

26. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR