



Appeal Decision

Site visit made on 29 June 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/P2935/Y/19/3242793

**Newcastle Building Society, 12 Hide Hill, Berwick-upon-Tweed,
Northumberland TD15 1AB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by Mr Kevin Parker, on behalf of Newcastle Building Society against the decision of Northumberland County Council.
 - The application Ref: 19/01482/VARYCO, dated 9 May 2019, sought to vary condition No 2 of a listed building consent Ref: 18/03766/LBC granted on 18 February 2019.
 - The works proposed are refurbishment of ground floor of existing branch; new aluminium shop front; alterations to existing timber cornice and sign details and forming disabled ramped level access.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be retained in complete accordance with the approved plans. The approved plans for this development are: 1. Location Plan 2. Sections Plan 3. Conservation Drawing - as proposed - 18011-C-02.
 - The reason for the condition is: To ensure that the approved development is carried out in complete accordance with the approved plans.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Reference is made in the Council's delegated report to relevant policies in the emerging Northumberland Local Plan, Publication Draft (Reg 19) (January 2019) (NLP). Bearing in mind Paragraph 48 of the National Planning Policy Framework (the Framework), I have not been provided with any substantive details regarding the stage of preparation of the NLP, the extent of any unresolved objections to the relevant policies and the degree of consistency of the relevant policies to the Framework. Therefore, I can only give these policies limited weight.
3. The site address is stated in the application form and in the Council's decision notice as No 12 Hide Hill, but stated in the appeal form as No 10 Hide Hill. For the avoidance of doubt I have used the address as stated in the application form in the banner heading above and determined the appeal on that basis.
4. An application for listed building consent was granted for works to the property, a branch of Newcastle Building Society, and a condition (No 2) was imposed requiring the approved development to be carried out in accordance

- with the approved plans¹. Following a reassessment of the internal layout of the ground floor in relation to the business and community needs of the branch, an application was submitted to vary condition No 2.
5. The ability to attach a condition to seek adherence to approved plans applies to planning casework only through the Town and Country Planning Act 1990 and the ability to make a Section 73 application for minor material amendments. There is no equivalent in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), wherein permission is granted for a specific development such that a fresh application should be sought for variations to listed building consent.
 6. Moreover, I am mindful that the changes being sought in this case go beyond what I would consider to be minor amendments. Nonetheless, as the Council has imposed the condition on a Section 20 application, then determined it allowing for consideration of the scheme proposed, I shall do the same. However, I am to determine the proposal on the basis of the plans submitted.
 7. The appellant has submitted a revised plan² which was not subject to consideration during the determination of the application³. The only change is the installation of a new six panel door fitted into an existing frame between the staff room and the proposed accessible toilet rather than the installation of a new stud partition in this location. The Council has not commented upon the revised plan in its statement of case but has referred to it in the suggested conditions. Having regard to the Wheatcroft Principles⁴ and noting the relatively minor nature of the proposed change, I do not consider that accepting this revised plan would deprive those who should have been consulted on the changed works of the opportunity of such consultation and have therefore taken it into account in my determination of the appeal.
 8. On my site visit I observed that a large proportion of the works granted as part of the approved application along with some of the works proposed as part of the application which are the subject of this appeal, have been carried out. Therefore and for the avoidance of doubt, I have determined the appeal on the basis that the proposed works have, in part, already occurred, having regard to the plans before me and not the works as observed on site.
 9. I am cognisant of Sections 7 and 9 of the Act. As listed building consent has not been obtained for the works that have already been carried out which are proposed as part of the appeal before me, they are unauthorised and their undertaking is an offence.
 10. The Council has not commented on the installation of a new external door in the secondary doorway to the right of the main front entrance of the property. The appellant has confirmed that the new door replaced a non-original 20th century door and its design is consistent with that approved for the main entrance. The replacement door has a neutral impact on the special interest of the building and the character and appearance of the Berwick-upon-Tweed Conservation Area (BCA). In this respect, it would preserve the significance of these designated heritage assets. As such, I do not consider it determinative

¹ Application Ref: 18/03766/LBC. Approved Plans - Location Plan, Sections Plan and Conservation Drawing - as proposed - 18011-C-02.

² Drawing Ref: Proposed Plan 18011-C-02 Rev B.

³ Application Ref: 19/01482/VARYCO.

⁴ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

and I have limited my considerations to the internal works which are the subject of this appeal.

Main Issue

11. In the context of the above, the main issue is whether the consequences of varying condition No 2 would preserve the Grade II listed building, No 12 Hide Hill, and any features of special architectural or historic interest that it possesses.

Reasons

12. The appeal building is Grade II listed and is prominently sited on a principal street in the commercial centre of the town within the BCA. Dating from the early 19th century, it is a three storey, four bay, terraced property with a shopfront on the ground floor and is constructed of ashlar stone with a slate roof.
13. Internally, the building has been altered over time. Nevertheless, the historic plan-form survives to some extent and remains legible. Furthermore, although some historic features of architectural interest have either been lost or are hidden by modern additions such as suspended ceilings, some remain in-situ. These include the central staircase, window architraves, profiled dado rail, decorative timber panels below the dado rail and floor tiles.
14. From the evidence available to me, I consider that the significance of the listed building to be principally derived from its historical illustrative value and aesthetic designed value as an early 19th century building. It is also derived from its value as part of a group with Nos 2 to 36 (even) and Nos 44 to 54 (even). Insofar as it pertains to this appeal, I consider the significance of its interior to be largely derived from its historic integrity, to which the legibility of its extant historic plan-form and surviving historic fabric contribute.
15. Of the internal works proposed as part of the variation of condition No 2, the completed works comprise the installation of stud partitions and doors at the foot of the staircase and within the decorative arch opposite; and the installation of a six panel door fitted into an existing frame between the staff room and the proposed accessible toilet. The outstanding proposed works include the installation of an accessible toilet and sink within a central former lobby space.
16. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that this should have clear and convincing justification.
17. The stud partitions and doors are relatively minimalist interventions that do not involve the loss of, or damage to, historic fabric and are potentially reversible. Furthermore, they permit important features of architectural interest, such as the decorative arch, to be viewed. Nevertheless, their location and form adversely interrupt the surviving historic plan-form of the building's ground floor. They detrimentally alter how the staircase, hall and lobby are read together, diminishing the building's historic integrity and identified significance. The fact that these spaces have limited public access and/or visibility does not mitigate the harm, as listed buildings are safeguarded for their inherent

architectural and historic interest irrespective of whether or not public access into certain parts of the property can be gained.

18. Turning to the proposed installation of the accessible toilet and sink. Limited detail has been provided regarding the position and route of the required waste pipe and any plumbing, or the impact of this work on the surviving historic features within the space, such as the profiled dado rail, decorative timber panels below the dado rail and window architrave. Consequently, this limits a full and accurate assessment of the proposal's effect on the special interest and significance of the heritage asset.
19. The appellant acknowledges that the formation of a single drainage route through an exterior wall would affect the building's fabric, but contends that this would not be significant. However, in my judgement, the installation of these facilities and utilities within this space would, at the very least, unduly obscure these historic features of interest or, at worse, cause permanent damage to them.
20. I have had regard to the fact that the changes would be seen in the context of a modern office. However, notwithstanding the unauthorised works that have already been carried out, it is evident that this is one area within the building where the historic plan-form can be appreciated and where features of special architectural interest survive intact. As such, it is paramount that these elements are conserved in a manner appropriate to the building's significance.
21. The appellant has highlighted that it is necessary and appropriate to consider the significance of these elements in the context of the already approved and extant scheme which is a relevant fallback position. Nevertheless, the permitted and extant scheme would not be as harmful as the proposal before me now. Furthermore, whilst I accept that there are building control constraints in facilitating the proposed alterations, there is nothing before me which adequately demonstrates that alternative, less harmful, options for the location of the accessible toilet on the ground floor of the building have been sufficiently or robustly explored.
22. Taking the above into account, I find that the consequences of varying condition No 2 in the way sought would fail to preserve the Grade II listed building, No 12 Hide Hill, and any features of special architectural or historic interest that it possesses. In doing so, it would harm the significance of this designated heritage asset.
23. With reference to Paragraphs 195 and 196 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the relatively limited extent of the proposed works, I find the harm to the listed building to be 'less than substantial' in this instance, but nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 196 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimum viable use of the building.
24. I acknowledge that some public benefits would arise from the continued investment into and maintenance of the building. However, no evidence has been provided which verifies that the optimum viable use of the building as the branch of a building society would be jeopardised or would cease if the appeal

were to fail and the proposed works were not implemented. This limits the weight I can attach to them in support of the appeal.

25. More substantial are the public benefits which would accrue from the provision of a fully accessible room and toilet facilities for use by local community groups and bodies. This socially inclusive offer would have the potential to deliver demonstrable and valuable public benefits and make a positive contribution to the wider community. As such, they carry substantial weight in favour of the appeal. However, no formal mechanism that would secure this community use in perpetuity is before me and nor is there evidence of the need for an accessible toilet of the design proposed. This reduces the weight I can ascribe to these public benefits.
26. I accept that if this appeal is to be dismissed, the provision of an accessible community room and toilet on the ground floor may not be possible. However, I am not persuaded that the proposed works are necessary to secure the optimum viable use of the building and I am not certain that the same public benefits could not be achieved by a less harmful scheme. In any event, there is limited value in providing these services and facilities if, in doing so, the works compromise the building's conservation to an unacceptable degree.
27. Consequently, I find that the public benefits of the proposed works would not be sufficient to outweigh the harm I have found to the significance of this designated heritage asset.
28. I therefore conclude that the consequences of varying condition No 2 to allow the works sought would fail to preserve the Grade II listed building, No 12 Hide Hill, and any features of special architectural or historic interest that it possesses. In doing so, it would cause 'less than substantial' harm to the significance of this designated heritage asset. Nonetheless, in the absence of sufficient public benefit that would outweigh the substantial weight which is given to this harm, it would clearly fail to satisfy the requirements of the Act and Paragraph 192 of the Framework.

Other Matter

29. The appeal building lies within the BCA. The special interest and significance of the BCA is primarily derived from a combination of the preservation of its historic street pattern and walls along with the quality and architectural coherence of its historic buildings. These make a positive contribution to the character and appearance of the BCA as a whole and thereby to its significance as a designated heritage asset.
30. Having regard to the main issue of this appeal, the variation of condition No 2 and the proposed internal works would have a neutral impact on, and would therefore preserve, the character and appearance of the BCA. As such, it would not conflict with the requirements of the Act. Nevertheless, the avoidance of harm in this regard weighs neutrally and does not amount to a consideration in support of the appeal or alter my overall conclusion.

Conclusion

31. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen INSPECTOR