



Appeal Decisions

Site visit made on 4 September 2020

by Beverley Wilders BA (Hons) PgDurt MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2020

Appeal A Ref: APP/D3125/W/20/3251260

34 New Street, Chipping Norton OX7 5LJ

- 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 & Mrs M Eldridge against the decision of West Oxfordshire District Council.
 - The application Ref 19/02784/HHD, dated 4 October 2019, was refused by notice dated 29 January 2020.
 - The development proposed is described as "reinstatement of cellar door to front elevation, formation of new steps down to cellar, and installation of 900 mm high railings. Remove new concrete flooring to reveal original tile and stone floor".
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Appeal B Ref: APP/D3125/Y/20/3251259

34 New Street, Chipping Norton OX7 5LJ

- 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 & Mrs M Eldridge against the decision of West Oxfordshire District Council.
 - The application Ref 19/02785/LBC, dated 4 October 2019, was refused by notice dated 29 January 2020.
 - The works proposed are described as "reinstatement of cellar door to front elevation, formation of new steps down to cellar, and installation of 900 mm high railings. Remove new concrete flooring to reveal original tile and stone floor".
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Decisions

Appeal A Ref: APP/D3125/W/20/3251260

1. The appeal is dismissed.

Appeal B Ref: APP/D3125/Y/20/3251259

2. The appeal is dismissed.

Procedural Matter

3. The description of development used above in relation to Appeal A has been taken from the planning application form. However, during the course of the application the Council altered the description to remove reference to the removal of the concrete floor noting that such works do not require planning permission. The description of development used by the appellants on the appeal form reflects this altered description. Consequently, in determining Appeal A, I have not had regard to the internal alterations proposed.

Main Issues

4. The main issues are whether the proposals would preserve:
 - 34 New Street, a Grade II Listed Building, and any features of special interest it possesses; and
 - the character or appearance of Chipping Norton Conservation Area.

Reasons

Special Interest and Significance

5. Located in a prominent roadside position in Chipping Norton Conservation Area, 34 New Street is included on the Statutory List at Grade II. The building is described in the list description as 18th Century with 19th Century alterations of coursed and squared rubblestone, stone dressings and gabled machine tiled roof with a W end stone stack. It is three storeys in height and has 3 bays with large pane sashes in dressed surrounds with projecting keystones. There is a 4-panel door to the right hand bay with stone circular steps up to it. The building has been included on the list for group value and it, together with adjacent stone buildings on this side of New Street, forms an imposing frontage comprising buildings of various scale and design which makes a positive contribution to the character and appearance of the Conservation Area.
6. Insofar as is relevant to the appeal proposals, the significance of the Listed Building derives from the simple, yet formal appearance of its frontage resulting primarily from the ordered arrangement and spacing of the windows and door, from the presence of curved stone entrance steps and from the consistent use of traditional building materials. The formal appearance of the frontage is complemented by the presence of a small surfaced front garden area enclosed by a low stone wall, metal railings and a gate.

The proposals

7. The proposals are for the insertion of a cellar door to the front elevation of the building. It would be positioned at lower ground floor level, to the left hand side of the frontage and would require the excavation of a section of the surfaced front garden area. Although originally described as the reinstatement of a door, prior to the decisions being made by the Council, investigations revealed that an existing blocked up opening within the lower ground front wall of the building is not full height and is therefore likely to be a former window or chute. The appeal scheme would entail steps down to the new door which would be enclosed by metal railings and a gate within the small front garden. Finally, the proposals would also include the removal of an area of concrete flooring within the cellar.

The effect of the proposals

8. As stated, the proposals involve the re-opening and enlargement of an existing opening within the lower ground floor of the front elevation of the building. The works to form the opening would involve the loss of historic fabric from the front wall of the building and a significant change to the architectural composition of the front elevation. At present the construction and appearance of the front garden area is such that only the upper part of the blocked up opening is visible above ground level. However, the proposals are not only to

re-open and enlarge this opening but also to excavate part of the front garden area to form steps down to the new cellar door. The steps which would be enclosed by metal railings and a gate would cover a sizeable portion of the front garden area and the new railings would be positioned near to the existing railings which mark the front boundary of the site.

9. Although it appears from evidence within the cellar that the lower ground floor front wall of the building is constructed from coursed stone, there is no evidence as to the likely condition or aesthetic character of the external face of the wall which is positioned below the surface of the front garden area and would be exposed by the proposals. Similarly, there is no evidence before me regarding the foundations of the building and how these might be affected by the proposals.
10. The enlargement of the existing opening would result in a loss of evidential value and significance as well as loss of historic fabric and harm to the architectural composition of the building. Notwithstanding the assertion on behalf of the appellants that the cellar once served as a kitchen, there is no compelling documentary or other evidence to attest to this alleged previous use. In addition, the formation of the steps and associated railings and gate would add visual clutter to the frontage and front garden area of the building. These aspects of the proposal taken together with uncertainty firstly of the appearance of the area of front wall to be exposed and secondly, about the impact of the proposals on the foundations and structural integrity of the building lead me to the clear view that these works would be harmful to the significance of the Listed Building and given the modest set back of the building from the street, would clearly be visible within the streetscene from public vantage points.
11. Moreover, due to their incongruous appearance, the works to the front of the building would also fail to preserve the character and appearance of the Conservation Area, the architectural character of which is partly defined by substantial buildings of simple, formal character constructed from local building materials. Though reference has been made by the appellants to an adjacent property that has a sunken front garden area, such features are not common along this part of New Street and in any event, what is being proposed at No 34 would be materially different to what is present at the adjacent property.
12. The Council has raised no objections to the proposal to remove an area of existing concrete flooring within the cellar to reveal the original tile and stone flooring below. Whilst I can see no reason to object to the principle of this aspect of the proposal which would also have no impact on the Conservation Area, the submitted application and plans lack detail in a number of critical respects including the location and area of concrete to be removed and the actual method of removal. Consequently, this lack of detail does not allow a meaningful assessment of the potential effects of this aspect of the proposal on the fabric and thus the significance and special interest of the appeal building, and due to the nature of the works I consider it unacceptable to leave such matters to be controlled by conditions.
13. On the basis of the submitted plans and details and taking the above matters into consideration, mindful of the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the Grade II Listed

Building, its features of special interest and the character and appearance of the Conservation Area would not be preserved by the proposals.

Other Matters

14. The appellants state that they have spent considerable time and money restoring the Listed Building to its original use as a dwelling following its previous use as offices. I have no reason to doubt that this is the case and I acknowledge the previous permission for the building to be used as flats which would likely have involved some alterations to the building. I also note and saw at my visit that the property has no rear garden area and that currently refuse and recycling bins are stored immediately adjacent to the rear door of the cellar close to other properties meaning that they need to be moved onto New Street on collection days. Should the proposals be successful, it is the intention that the bins together with other items would be stored within the cellar creating additional useable floorspace and improving living conditions for the appellants and their immediate neighbours. It is also stated that the provision of a door to the front of the cellar would provide an additional escape route in the event of a fire.
15. Although the proposals would provide some benefits to the current and future occupiers of the building, it has not been demonstrated that the proposals are necessary to secure a continued use of the building consistent with its conservation. Whilst most of the purported benefits would be private, fire safety and environmental improvements may be reasonably considered to be public benefits, though of limited weight given the scale and nature of the proposal and the modest benefits that would ensue.
16. According to the appellants, the removal of the concrete could have the benefit of revealing the historic fabric of the building and could help to alleviate damp. However, without full details of how the removal would be carried out it is difficult to quantify any public benefit that would be associated with this part of the proposal, or to assess what effect it may have in terms of the alleviation of damp.
17. Moreover, none of the material before me establishes that a continued residential use of the property, consistent with its conservation would not endure were the proposals subject to these appeals not to come forward. For these reasons and taken together with my observations in the immediately preceding paragraphs, it has not therefore been established that the appeal schemes would be necessary to secure the optimum viable use of the building.
18. I note that no objections have been raised to the proposals by the Town Council or other interested parties. However, this is not a benefit of the appeal schemes, but rather a neutral factor that weighs neither for nor against the proposals in the planning balance.
19. The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Local and national planning policy seeks to protect and enhance valued landscapes and paragraph 172 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. Though not specifically referred to in its planning reason for refusal, the Council refers to harm to the AONB in its officer report on the planning application and in its

statement of case. However, no explanation was provided as to the source of such harm other than that resulting from the harm to the Listed Building and Conservation Area. Consequently, having regard to the scale and nature of the proposal, the site location within the built up area of Chipping Norton and the lack of evidence regarding the particular qualities of the AONB and how these would be affected by the proposals, I am satisfied that the AONB would be conserved. Nevertheless, this absence of harm is again a neutral factor that weighs neither for nor against the proposals in the overall balance.

Planning Balance and Conclusion

20. The Framework anticipates that once a finding of harm to the significance of a heritage asset, such as a listed building or conservation area, has been reached, then the magnitude of that harm should be assessed. In this case, given the scale and nature of the proposals, I conclude that they would cause less than substantial harm to the significance of the Grade II Listed 34 New Street and the Conservation Area. Nevertheless, at paragraph 193 the Framework sets out that great weight should be given to a heritage asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, at paragraph 196 the Framework states that the harm should be weighed against the public benefits of a proposal. Such benefits could include circumstances where a proposal would secure the optimal viable use of a building.
21. For the reasons given above, the proposals would not result in the optimum viable use of the building. Moreover, the public benefits of the appeal scheme would be limited and would not be of sufficient weight to tip the overall planning balance in its favour when set against the great weight and importance that I attach to the harm that would be caused to the significance of the heritage assets. In this way the works conflict with the Framework insofar as, amongst other things, it requires heritage assets to be conserved in a manner appropriate to their significance. For the same reasons, the proposed works would conflict with policies OS2, OS4, EH9, EH10 and EH11 of the West Oxfordshire Local Plan 2031 adopted September 2018 and relevant guidance contained within the West Oxfordshire Design Guide 2016 and the National Design Guide. These policies and this guidance seek, amongst other things, to ensure that proposals are well designed, that they respect the host building and surrounding area and conserve heritage assets.
22. In respect of Appeal A, no material considerations advanced in favour of the proposals are of a sufficient weight to justify a decision other than in accordance with the development plan, with which, in terms of the above referenced policies, the appeal scheme would clearly conflict
23. For the above reasons and having regard to all matters raised, I conclude that both appeals should be dismissed.

Beverley Wilders

INSPECTOR