
Appeal Decision

Site visit made on 14 October 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 20 October 2020

Appeal Ref: APP/J1860/F/20/3250981

Mount Pleasant Hotel, 50 Belle Vue Terrace, Malvern WR14 4PZ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ajmail Bains against a listed building enforcement notice issued by Malvern Hills District Council.
 - The enforcement notice was issued on 16 March 2020.
 - The contravention of listed building control alleged in the notice is the erection of a shelter to the south elevation of the listed building.
 - The requirements of the notice are 1. Permanently remove the unauthorised shelter; and 2. Restore the land and building to its condition before the breach took place.
 - The period for compliance with the requirements is six calendar months.
 - The appeal is made on the grounds set out in section 39(1)(d) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Decision

1. The appeal is dismissed, the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Reasons

The ground (d) appeal

2. The shelter is an open sided structure with a pitched roof supported on two timber posts and by the south wall of the Mount Pleasant Hotel, a Grade II listed building. Under the shelter is a main door into the hotel and, set away from the door, is a stone fountain set into a bank that is known as the Foley Fountain. The Foley Fountain was given to the people of Malvern by Lady Foley in 1830 and has been in its current location since 1892. The fountain has local historic importance. The fountain became damaged and the Appellant maintains that the erection of the shelter was urgently necessary to save it from further damage.

3. A ground (d) appeal can only be successful if the works to a listed building that are the subject of an enforcement notice were urgently necessary in the interests of, amongst other things, the preservation of the building. The works, in this case, were carried out not for the preservation of the listed building but for the preservation of the Foley Fountain. Furthermore, it cannot be claimed that the erection of the shelter constituted the 'minimum measures immediately necessary'. In this regard, the fountain could be protected by a much smaller shelter than that which has been erected. In these circumstances the ground (d) appeal must fail.

The ground (e) appeal

4. The main issue in the ground (e) appeal is the effect of the shelter on the architectural and historic interest and significance of the listed building.

5. The three storey Mount Pleasant Hotel was built about 1816 in red brick under a low pitched hipped slate roof. It has many architectural features typical of the Georgian period including, on its south elevation, a full-height bay window and many sash windows at both floor levels. The shelter is in a central location on the elevation and is directly below the sill of a sash window. The front of the shelter has a parapet that rises above the slate clad gable roof. The form of the shelter imitates that of four small dormers on the roof of the hotel but these are later additions that do not reflect the architecture of the original building.

6. Furthermore, the shelter is cramped between the sill of the window above and the lintel of the door below, and is constructed in poor quality materials; the two pillars are in rough sawn timber without any sensitive detailing, rainwater goods are plastic, and the slates to the roof are artificial. In addition, the parapetted front elevation is clumsy in design, prominent and unattractive. Overall, the shelter, which is incongruous and unappealing, has had a considerable adverse effect on the architectural and historic interest and significance of the Mount Pleasant Hotel and conflicts with, in particular, policy SWDP 6 of the South Worcestershire Development Plan.

7. Paragraph 134 of the National Planning Policy Framework states that where a development proposal causes less than substantial harm to the significance of a heritage asset the harm should be weighed against the public benefits of the proposal. The shelter does protect the Foley Fountain from the adverse effects of the weather and the preservation of this locally important historic asset is a public benefit. But this benefit does not justify the retention of a structure that has an adverse effect on the significance of a building that is listed for its special architectural and historic interest. The less than substantial harm caused by the shelter is not outweighed by the public benefit.

8. The shelter adversely affects the architectural and historic interest and significance of the listed building. The ground (e) appeal thus fails.

John Braithwaite

Inspector