



Appeal Decisions

Site visit made on 29 September 2020

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

Decision date: 30 October 2020

Appeal A: ref. APP/J1915/X/19/3238906

Farmhouse at Knoll Farm, High Cross SG11 1BP

- The appeal is made under section 26K of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) as amended by the Planning and Compensation Act 1991, against a refusal to grant a Certificate of Lawfulness of Proposed Works (CLPW).
 - The appeal is by David Carter against the decision of East Hertfordshire District Council.
 - The application ref.3/19/0410/LCL, dated 15 February 2019, was refused by notice dated 12 April 2019.
 - The works for which a certificate of lawful use or development is sought are:
Replacement of existing painted softwood windows and French doors strictly on a like-for-like basis. The following windows and French doors are to be replaced: *****. All the existing items date from the second half of the 20th century and lack the refinement and elegance of good period joinery. Many are factory produced or off-the-shelf items which positively detract from the character and significance of the listed building. All have modern float (or sheet) glass and most are in poor condition.
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Appeal B: ref. APP/J1915/Y/20/3247519

Knoll Farm, High Cross SG11 1BP

- 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 by David Carter against the decision of East Hertfordshire District Council.
 - The application ref. 3/19/0331/LBC, dated 15 February 2019, was refused by notice dated 1 October 2019.
 - The works proposed are to:
Replace the ground and first floor single glazed windows to the front, rear and side elevations including the single glazed French doors and side panels to the rear elevation with new timber double glazed windows with appropriate detailing. (WG01 - WG04 inclusive; WG 07; WG08; WF01 to WF05 inclusive and French Doors DG01 and DG02 - Excluding WG05; WG06; WG09 and WG10).
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Decisions

Appeal A: ref. APP/J1915/X/19/3238906

1. The appeal is dismissed.

Appeal B: ref. APP/J1915/Y/20/3247519

2. The appeal is dismissed insofar as it relates to replacement of single glazed windows ref. WG01 to WG04 inclusive; WG 07; WG08, and WF01 to WF04 to the front and rear elevations, and listed building consent is refused for that part of the proposals.

3. The appeal is allowed insofar as it relates to the first floor windows WF05 and WF06, and ground floor French doors DG01 and DG02, and listed building consent is granted for replacement of these first floor single glazed windows to the rear and side elevations including the ground floor single glazed French doors and side panels to the rear elevation with new timber double glazed windows and doors with appropriate detailing at the Farmhouse at Knoll Farm, High Cross SG11 1BP in accordance with the terms of the application, ref. 3/19/0331/LBC, dated 15 February 2019, and the plans submitted with it, so far as relevant to that part of the works hereby permitted and subject to the following conditions: .
- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) The works hereby granted consent shall be carried out in accordance with the following drawings, insofar as they relate to those works:
740-2-ELE-01 – Existing elevations
740-2-ELE-02 – Proposed Elevations – as revised in accordance with Condition 3 below.
740.14 rev B – Vertical section of timber casement window.
740.16 Rev B – the plan and elevation of first floor window WF05 - as revised in accordance with Condition 3 below.
 - 3) No works shall take place until details of the design of first floor windows WF05 and WF06 and ground floor French doors DG01 and DG02, including drawings at scales of 1:50 (revised proposed elevations), 1:20 (for elevations and plans of all approved items) and 1:5 (for sectional details), and specification of the slimline double glazed units to be used and decorations to be applied have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
 - 4) Upon completion of the works authorised by this consent, any damage caused to the building in the course of carrying out the works shall be made good within 1 month in accordance with a scheme submitted to, and approved in writing by, the local planning authority.

Preliminary matters

4. The CLPW application form does not include a list of the windows and French doors for which the certificate is sought, but on enquiry I have been informed that they are the same as those for which listed building consent was applied. This is the basis on which I have determined Appeal A.
5. The Farmhouse at Knoll Farm is a Grade II listed building, I have therefore had special regard to the desirability of preserving the building, its setting, or any features of special architectural or historic interest which it possesses as required by s.16(2) of the Act.
6. I note that the Council refer to development plan policy relating to protection of heritage assets. The development plan is not determinative in listed building cases. However, I shall take such policy as indicative of the Council's stance on listed building matters.

Background matters

7. Under the provisions of s.26H(1) of the Act, anyone who wishes to ascertain whether proposed works for the alteration or extension of a listed building in England would be lawful may make an application to the local planning

- authority specifying the building and describing the works. S.26H(2) provides that for the purposes of this section works would be lawful if they would not affect *'the character of the listed building as a building of special architectural or historic interest'*.
8. S.26H(3) says that if on an application under this section the authority are provided with information satisfying them that the works described in the application would be lawful at the time of the application, they must issue a certificate to that effect; and in any other case they must refuse the application
 9. Where such an application to a local planning authority is refused, s.26K of the Act then sets out that an appeal may be made against that refusal. If on appeal it is determined that the authority's decision was not well-founded, the appeal must be allowed. If it is determined the decision was well-founded, the appeal must be dismissed
 10. An appeal relating to an application for a CLPW under s.26K is confined to the narrow remit of reviewing the LPA's decision. It requires an assessment to be made as to whether the refusal of the application is, or is not, well-founded. The assessment must be based on whether or not the proposed works for which the certificate is sought were considered to be lawful on the date of the application – that is, 15 February 2019.
 11. In a CLPW appeal the burden of proof lies on the appellant, who must demonstrate that the works would be lawful *'on the balance of probabilities'*. The government's Planning Practice Guidance (PPG) indicates that an applicant is responsible for providing sufficient information to support such an application and that without precise and unambiguous information, a local planning authority may be justified in refusing to grant a certificate.

Appeal A – the CLPW appeal

12. As noted above, and following the requirements of the Act, the main issue in an appeal of this type is whether or not the Council's decision was well-founded. In that regard, the principal question is whether the proposed works would affect the character of the listed building as a building of special architectural or historic interest. This is irrespective of whether the effect would be positive or negative.
13. The CLPW application form states that the windows and doors are to be replaced strictly on a like-for-like basis, and that they would precisely replicate the existing joinery items in every respect. The form was accompanied by elevations and plans showing the location of these windows and doors. No other significant information was provided.
14. The Council refused the application on the basis that they could not be confident as to what the replacement items would be like, since no drawings or details had been provided. I take this to mean that no *detailed* drawings were provided.
15. I appreciate that the appellant says the various items would be replaced strictly on a like-for-like basis and be precise replicas of what exists. I accept that if that were to be carried out to the letter there would be no effect on the special interest of the listed building. However, in my experience there can be wide spectrum of interpretation as to what constitute precise replicas of such things as joinery elements. This can be particularly so with such things as the

thicknesses of glazing bars and sash members, dimensions and shapes of mouldings, glazing details and ironmongery types. In the absence of any detailed record of the existing items – such as large scale measured drawings as well as detailed photographs – it would be difficult to monitor whether or not the replacements were precise replicas and would therefore have a neutral effect on special interest.

16. Given this degree of uncertainty I do not consider the appellant has provided information that is sufficiently precise or unambiguous to show that on the balance of probabilities the proposed works would have no effect on the character of the listed building as a building of special architectural or historic interest. In the light of this, I consider the Council's decision to refuse the grant of a CLPW was well-founded. The appeal therefore fails.

Appeal B – the listed building appeal.

17. From all that I have seen and read I consider the main issue in the appeal to be the effect of the proposed works on the special interest of the Grade II listed Knoll Farm.
18. The Farmhouse dates from the mid-17th century and has 19th century enlargements. I understand that the front elevation may have been re-built in the mid-20th century.
19. I note that ground floor windows WG05, WF06, WG09 and WG10 are explicitly excluded from the application. Although drawings of windows WG05 and WG09 have been submitted, I shall take no account of them. I note also that the Council's Conservation Officer's report of September 2019 comments that there were no detailed drawings of windows WG07 and WG08, nor of windows WF01 to WF05 inclusive, or of French doors DG01 and DG02.
20. Considering the drawings submitted, no.740.14 rev B shows a vertical section through a timber casement window. This probably refers to windows WF01 to WF04 inclusive, and to windows WG07 and WG08, which are all timber casements. There is a 1:20 scale plan and elevation of window WF05 (drawing no. 740.16 rev B), but this is shown as a different arrangement on the proposed elevations.
21. I accept that the detailing of the joinery of the double hung sash windows would probably be an improvement compared with the existing situation. However, all the new windows would be double glazed, and I concur with the view of the Conservation Officer that double glazing is an alien technology when introduced into a building of this age and provenance. I consider the high uniform reflectivity and the double reflections that are inherent in double glazed units would be all too apparent in so many windows on both principal elevations of the building. This would be particularly so for relatively formally organised front elevation.
22. I appreciate that the advice of Historic England¹ is that slimline double glazing may be acceptable where the proposed new windows are of a more sympathetic design than those they replace to the degree that the net impact would be neutral or positive. However, while many of the new windows would be of more sympathetic detail design, their overall general arrangement - in terms of whether sash or casement pattern, and numbers of panes - would

¹ Historic England publication: 'Traditional Windows Their Care, Repair and Upgrading' February 2017.

- remain much the same. I consider the impact of double glazing would outweigh the improvement in detailing, and that the net impact would be harmful.
23. While I say the joinery detailing would for the most part be an improvement, in some instances this would not necessarily be the case. Notably WG07, WG08 and WF04 are relatively modern casement windows either in good condition or quite readily repairable. They are of a plain and straightforward design with flush frames and are not untypical of many rural houses, and as such they contribute to the interest of the building. Again, I consider the double glazing would be incongruous, and they should not be replaced.
24. The ground floor French doors DG01 and DG02 and the first floor window WF05 are relatively modern introductions in large openings. They are generally in poor condition. I do not consider their replacement in the form of the general arrangements shown on the proposed elevations would cause harm to listed building interests, subject to a condition requiring submission of details. I note there is an inconsistency in the general arrangement of window WF05 as between the 1:50 proposed elevations and the detailed plan and elevation of this window. I deal with that below.
25. Given these three elements would clearly be modern introductions in a relatively restricted area of the back elevation, I do not consider the use of slimline double-glazed units would be unacceptable. No details have been submitted for any of these elements, but subject to suitable conditions I consider they would be appropriate introductions.
26. The first floor window WF06 in the western gable end has a top-hung light above two fixed panes with a horizontal glazing bar. It is clearly a relatively recent – and highly incongruous – introduction. I would see no harm in this being replaced with a casement window of appropriate design with slimline double glazing. Again, no details have been submitted, and in order to control the detailed design any consent would be subject to suitable conditions.
27. I conclude on the main issue that the replacement of windows WG01 to WG04 inclusive; WG 07; WG08, and WF01 to WF04 inclusive would cause significant harm to the special interest of the Grade II listed Farmhouse at Knoll Farm. I also conclude that replacement of French doors DG01 and DG02, windows WF05 and WF06 would cause no significant harm to the special interest of the listed building, subject to imposition of conditions to control their detail design.
28. I have found that elements of the proposed works would cause significant harm to the special interest of the listed building. However, this must be regarded as less than substantial harm in terms of paragraph 196 of the National Planning Policy Framework. Such harm should be weighed against the public benefits of the proposal, including securing the optimum viable use.
29. The Farmhouse is clearly in its optimum viable use as a dwelling, but it is argued there would be a public benefit derived from energy saving double glazing. However, Historic England advice in the document previously referred to is that there are other less harmful measures that can achieve almost the same or equal energy savings. I concur with that advice, and on balance I do not consider the harm caused would be outweighed by any significant public benefit.

30. Regarding conditions on those parts of the proposals for which I shall grant consent, I consider it would be necessary and reasonable for there to be the standard time limit on the start of the works, and to require conformity with the relevant drawings. Furthermore, there should be a condition to control the design of those elements which are not fully or precisely described. In particular there are no details of the two French doors or the gable end window, the 1:50 drawing of proposed elevations is inconsistent with the 1:20 drawing of window WF05, and there are no drawings of window WF06. Finally there should be a condition to require making good of any building fabric that might be damaged in the Course of the works.

Conclusions

31. For the reasons given above I conclude that Appeal A should be dismissed, and that Appeal B should be dismissed in part and allowed in part, with consent granted subject to conditions.

Stephen Brown

INSPECTOR