



Appeal Decisions

Site visit made on 15 September 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2021

Appeal A: APP/M4510/W/20/3254023

40 Clayton Street West, Newcastle upon Tyne NE1 5DZ

- 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 Anthony Lang against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref: 2020/0234/01/DET, dated 8 February 2020, was refused by notice dated 1 June 2020.
 - The development proposed is described as: Replacement windows, and external and internal alterations to existing ground floor office suite.
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Appeal B: APP/M4510/Y/20/3254024

40 Clayton Street West, Newcastle upon Tyne NE1 5DZ

- 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 Anthony Lang against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref: 2020/0235/01/LBC, dated 8 February 2020, was refused by notice dated 29 May 2020.
 - The works proposed are described as: Replacement windows, and external and internal alterations to existing ground floor office suite.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matters

3. The Newcastle upon Tyne Development and Allocations Plan (the DAP) was adopted on 24 June 2020, after the decisions on the applications were made and after the date of the submission of the appeals. This plan supersedes the saved policies in the Newcastle upon Tyne Unitary Development Plan that are cited on the decision notices. The views of the parties were sought on any implications that the adoption of the DAP may have on their respective cases. The Council advised that policies DM15 and DM20 of the DAP were now relevant to the appeal proposals. The appellant did not make any further submissions. I have therefore dealt with the appeals on the basis of these

policies from the DAP and the Policies from the Core Strategy and Urban Core plan for Gateshead and Newcastle upon Tyne 2015 (the CSUCP) that are cited on the decision notices issued by the Council.

4. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issues are whether the proposal would preserve a Grade II listed building, 40 Clayton Street West (Ref: 1024912), and any of the features of special architectural or historic interest that it possesses and the extent to which it would preserve or enhance the character or appearance of the Newcastle Central Conservation Area.

Reasons

The effect on the Listed Building

6. Number 40 Clayton Street is a four storey property located on the corner of Clayton Street West and Forth Place. It was built around 1837 and is constructed in ashlar stonework, currently painted white, with a rusticated ground floor and smooth faced upper storeys. The upper storeys have cornices above the first, second, and third floor windows and a parapet largely conceals the shallow pitched roof. The property was originally built as a house and was subsequently used as a bank before its current use as offices.
7. The ground floor of the building has previously been altered with the left bay of the three bay front elevation removed and a recessed door inserted under the first floor corner. The window opening in the right hand bay of the front elevation has been converted to a doorway with a glazed door. The ground floor windows have also been altered and this is noted in the list description at the time the building was listed in 1971. These are currently metal framed windows with a single large lower light below two smaller side by side panes, with an opaque panel above. The upper floors retain sash windows, with 6 over 6 pane windows on the first and second floors, and 3 over 3 pane windows on the uppermost floor.
8. The property occupies a visually prominent position at the junction of Clayton Street West and Forth Place. The significance of the building in so far as it is relevant to this appeal is derived from the relatively simple, classical, symmetrical building design which is illustrative of buildings of this period. It also provides evidence of the former, domestic, use of the property. The building was designed by a local architect working for prolific local builder Richard Grainger, who was responsible for the redevelopment of much of the centre of Newcastle in the mid nineteenth century. The appeal building forms a visually important termination to this section of Grainger's developments.
9. Externally, the proposed works entail the replacement of the existing glazed entrance door on the Clayton Street West elevation with a metal framed window and the replacement of the existing window in the central bay of this elevation with a new metal framed window. On the side elevation, facing Forth Place, the four ground floor windows would be replaced with new metal framed windows. Also, on the Forth Place elevation, it is proposed that a frosted glass screen would be installed in an existing opening to the side of the recessed

- entrance. This opening is currently glazed, although the glazing is covered by an opaque film. Finally, it is proposed that low level lighting would be provided to the sides of the steps to the existing recessed entrance.
10. The main area of dispute between the parties is in respect of the alterations to the windows on the Forth Place elevation of the building where it is proposed that the new glazing units would be placed at the front of the window reveals with only a minimal set back of approximately 50mm. It is also proposed that an opaquing film be applied to the interior of the new window units. The present windows on this elevation are inset by approximately 260mm, which is similar to the depth of the external reveals on the upper floors. The proposal would result in the reinstatement to its full height of the opening closest to the rear of the building, which currently has the head lowered by a later insertion. However, the proposal would erode the rhythm of façade, which is articulated by a regular pattern of windows set in from main face of building within a deep external reveal, which is repeated in the upper floors, and is characteristic of the design of the building and buildings of the same age and style in the area.
 11. The ground floor of building has previously been heavily altered, resulting in the loss of the original main entrance and a reduction in the legibility of the building. The proposed alteration to the window forms on the Forth Place elevation would further reduce that legibility and would be inconsistent with the historic fenestration pattern and articulation of the facades.
 12. My attention has been drawn to several other appeal decisions relating the replacement of windows in listed buildings. I do not have the full details of these cases before me. Whilst I accept that listing does not preclude the replacement of windows in a building, from the decisions submitted, these cases did not relate to the same circumstances as the appeals now before me. Specifically, the cases referred to were for new windows in the same position within the reveals as those to be replaced and do not consider the effect of repositioning the glazing on the listed buildings. As such I can give little weight to these in relation to the proposals that form the subject of these appeals.
 13. Similarly, reference is made to windows on the ground floor of the former Turks Head Hotel on Grey Street. I was able to visit this building during the site visit. I saw that there was one window which had been sited at the front of the window reveal, flush with the face of the building. What appear to have been two further window openings to each side have been altered to extend to ground level and one is now a doorway. I do not have any information relating to the circumstances that led to these alterations being accepted or when they occurred. This notwithstanding, the façade of this building has a greater degree of articulation and detail than the much simpler elevations of the appeal building, which render the effect of this single window on the building less obvious. I do not consider that the alterations to this building are relevant to the case before me or justify the appeal proposals.
 14. Consequently, I find that the proposed replacement windows to the Forth Place elevation of the building would cause harm to the special architectural and historic interest of the building.
 15. On the Clayton Street West elevation, the proposed new windows would be installed at approximately the same depth within the external reveals as the present window. The current window in the central bay of the Clayton Street West façade has a timber panel installed between the head of the window and

the top of the external reveal. Whilst the use of a single large pane of glass would not reflect the historic sash windows in the upper floors, the proposed works would result in the central window in the façade being restored to the full height of the external reveal. In visual terms, the effect of the new windows would be similar to that of the present fully glazed door in the right hand bay of the façade. Although not replicating the historic windows above, the proposal would reinstate the general proportions of the ground floor glazing and unify the approach to the window openings on the Clayton Street West façade. This would result in a minor improvement to this façade and, consequently, have a positive effect on the architectural and historic interest of the building

16. The Council have expressed concern regarding the proposed treatment of the cill detail to these two windows, which are shown to be slightly angled on the submitted drawings. I have no information in respect of whether the ground floor window openings previously had higher cills than those now present which are approximately level with the plinth of the building. I observed that the windows on the first floor of the appeal building have a simple stone cill inset slightly from the main face of the wall, although it was not possible to discern the full profile of these from ground level. I also saw that on nearby buildings on this side of Clayton Street West, which are of a contemporary age to the appeal building and attributed to the same architect and builder, the ground floor windows were similarly set almost level with bottom of the entrance door but also had a simple stone cill inset slightly behind the band of rustication.
17. It would appear that the historic cills of the appeal building have been lost when earlier alterations to the ground floor window openings were carried out and the current cills comprise a thin slab of material overlaid on the building plinth. These exhibit a slight angle to shed water away from the building. There are no details of the method by which the re-profiling of the cills would be carried out or whether this would result in any further loss of historic building fabric. This notwithstanding, as the increase in the angle of fall to the bottom of the window reveal would be small, any loss of historic fabric would be minimal. The base of the external window reveals has previously been altered and the historic cill detail lost. The proposed minor alteration to the cill profile would, consequently, have a neutral effect on the architectural and historic interest of the building.
18. The Council do not raise any objections in principal to the replacement of the current glazing in the side elevation of the recessed entrance on the corner of the building, although they have expressed concern regarding the use of frosted glass and the reduction of visual permeability. The present glazing in this opening is covered with a plastic opaquing film and the recessed entrance is a later, twentieth century, alteration to the building. Although the recessed entrance feature is evidence of a previous adaption of the building to new uses, it has little architectural merit in its own right. There is very little detail in the submissions regarding the nature of the proposed screen. However, the proposed new screen would be translucent and whilst it would not provide an uninterrupted view through the entranceway, it would allow for a greater degree of visibility than the present completely opaque arrangement. This alteration would have a broadly neutral effect on the building and the precise details of the glazed screen could be a matter dealt with by a condition.

19. Internally, it is proposed to demolish a supporting wall, install partition walls to form a lobby, meeting room, kitchen, and toilets, and provide privacy screens at the rear of the window openings. A number of other internal works are proposed including the installation of a suspended ceiling, relevening the existing floor, as well as providing mechanical ventilation to the proposed new kitchen and toilets.
20. I was not able to access the interior of the building when I visited the site. However, I note that the Council have not raised any objections in principal to the proposed internal works, apart from the internal privacy screens to the windows on the Forth Place elevation.
21. It is proposed that a freestanding screen approximately 1.4 metres high be placed at the back of the internal reveals of all the ground floor windows. It is not clear from the submitted drawings whether these would be affixed to the building or self-supporting. The Council do not have any objections to the proposed screens in the windows of the Clayton Street West elevation. The Council's concerns in respect of the screens to the windows facing Forth Place are regarding the reduction of visual permeability of the building.
22. It is proposed that a translucent film be applied to the inside face of the new glazing units to the Forth Place elevation to give a frosted effect. The Council has not raised objections to this aspect of the proposals. The present windows on this elevation have a tinted film applied which limits views to the interior of the building. Although I would agree with the Council that the use of a translucent film and freestanding privacy screens is perhaps unnecessary, it is acknowledged by the Council that there have been previous substantial alterations to the interior of the ground floor. There is no indication that the ground floor interior retains any features of historic interest that would be harmed by the installation of the proposed screens and the overall effect of the translucent film would not be significantly different to the current situation. This element of the proposal would therefore have a neutral effect.
23. The Council do not object to any of the other proposed internal works and have stated that the precise details of these could be addressed through conditions. From the submitted evidence and the application drawings, it is clear that the interior of the ground floor of the building has been heavily modified in the past and that little, or none, of the historic floorplan remains. Within this context and based on the evidence submitted, I find that the proposed internal works would not result in any loss of features of architectural or historic interest and would have a neutral effect on the significance of the building.

The effect on the Conservation Area

24. The appeal building is located within, but adjacent to the boundary of, the Newcastle Central Conservation Area. The conservation area covers a substantial proportion of the historic core of the city, including the castle, cathedral, and surviving portions of the medieval town walls. In the vicinity of the appeal site, the conservation area has a mixed character with the west side of the street, where the appeal building is sited, formed predominantly of a four storey terrace in a similar architectural style to the appeal building, although with a basement level separated from the footway by iron railings. This terrace is largely in residential use with some commercial uses at ground floor level. To the rear of the appeal building is a boarded up warehouse entrance forming part of the adjoining building at 38 Clayton Street West. The

frontage of this neighbouring building was boarded up and shrouded by scaffolding at the time of my site visit. Behind the appeal building to the north west are modern flats that are outside the conservation area. The east side of the street contains the Cathedral of St Mary and its associated buildings and grounds, with Newcastle Central Station visible beyond. The north end of the street has a more commercial character closer to its junction with Westgate Road.

25. Neither party has submitted any substantive evidence in respect of the conservation area. From what I saw when I visited the site and surrounding area, the significance of the conservation area, in so far as it is relevant to these appeals, is that it is illustrative of the development of central Newcastle over time from the medieval period onwards and, in particular, the mid-nineteenth century redevelopment of the central area by Richard Grainger, when new streets and buildings were laid out around, and in places over, the earlier medieval street pattern.
26. The uniform rhythm and pattern of the fenestration of the adjoining terrace, which is accentuated by the deep external window reveals is a strong characteristic of area. This continues the visual characteristics of Clayton Street in particular, but also other prominent streets within the city centre including Grainger Street and Grey Street. The proposal for the replacement windows on the Forth Place elevation would be inconsistent with this. The appeal building effectively forms a visual stop to the nineteenth century redevelopment of the city centre and is in a prominent location on the boundary of the conservation area.
27. Whilst it is the side elevation of the building, the Forth Place elevation is visible from some distance on the main roads due to the alignment of the roads and its position relative to the neighbouring buildings. I also saw that Forth Place is a well-used route from Waterloo Street to the rear and Clayton Street West. The incongruous positioning of the glazing within the ground floor side window reveals, at odds with the prevailing approach to windows in the area, would be harmful to the character and appearance of the conservation area.

Conclusion on the effect on the heritage assets

28. Given the above, I find that the proposal, as a result of the proposed works to the Forth Place elevation, would fail to preserve the special interest of the listed building and the significance of the Conservation Area. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.
29. I have found that the proposed works to the Forth Place elevation would cause harm to the special architectural or historic interest and the significance of the appeal building. This harm would not result in a total loss of the significance of the building and would be primarily limited to the lower floors of the building. As such, this harm would be less than substantial in terms of the National Planning Policy Framework (the Framework).
30. The degree of harm to the character and appearance of the conservation area, and, consequently, its significance, would not be great and would be localised to a small area in the near vicinity of the appeal site. As a result, the harm would also be less than substantial in terms of the Framework.

31. Paragraph 193 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. I have found that the harm would be less than substantial in this instance but, nevertheless, of considerable importance and weight.
32. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing of the optimal viable use of listed buildings. The proposed works to the Clayton Street West elevation would result in a small improvement to the appearance of the building. However, in terms of magnitude and extent, this improvement would be less than the harm that would be caused and would not overcome that harm. The proposed works would assist in retaining the appeal building in a viable use but there is no substantive evidence before me that would indicate that without the works proceeding the building would cease to be used for its current lawful use or that the repositioning of the glazing in the Forth Place elevation windows is fundamental to that use continuing. Consequently, this would not outweigh the harm that would result, either in its own right, or cumulatively with the improvement to the Clayton Street West elevation.
33. Whilst I have noted that the appellant's point regarding antisocial behaviour in the area, this is not directly caused by the existing features of the building. Although the reduction in the depth of the external window reveals on the Forth Place elevation may reduce the opportunity for the window cills to be used as informal seating, ultimately, the behaviour of patrons of nearby public houses would not be significantly modified by these alterations. As a result, little weight can be given to this point.
34. Given the above, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II listed building and the character or appearance of the Newcastle Central Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 192 of the Framework and conflict with Policies CS15, UC12, and UC14 of the CSCUCP, and Policies DM15 and DM20 of the DAP. When taken together, these policies seek, among other matters, to ensure that development is of a high standard of design that respects the positive characteristics and context of an area and sustains, or enhances, the significance, appearance, and character of heritage assets and the historic environment. As a result, the proposal would not be in accordance with the development plan.

Conclusion

35. For the above reasons, I conclude that both the appeals should be dismissed.

John Dowsett

INSPECTOR