The Planning Inspectorate

# Appeal Decisions

Site visits made on 30 April and 14 May 2021

**by Mr JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 May 2021**

**Scheme 1 Appeal A: APP/H1840/W/21/3267618**
**35 High Street, Broadway WR12 7DP**

- 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 Trinity House Paintings against the decision of Wychavon District Council.
- The application Ref 20/00345/FUL, dated 17 February 2020, was refused by notice dated 28 July 2020.
- The development proposed is a redesigned second storey rear extension with pitched and flat roof.

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**Scheme 1 Appeal B: APP/H1840/Y/21/3267619**
**35 High Street, Broadway WR12 7DP**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
- The appeal is made by Trinity House Paintings against the decision of Wychavon District Council.
- The application Ref 20/00346/LB, dated 17 February 2020, was refused by notice dated 28 July 2020.
- The works proposed are a redesigned second storey rear extension with pitched and flat roof.

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**Scheme 2 Appeal C: APP/H1840/W/21/3267622**
**35 High Street, Broadway WR12 7DP**

- 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 Trinity House Paintings against the decision of Wychavon District Council.
- The application Ref 20/02245/FUL, dated 16 October 2020, was refused by notice dated 3 December 2020.
- The development proposed is a second storey rear extension with a pitched roof.

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## Decisions

### Appeal A

1. The appeal is dismissed

### Appeal B

2. The appeal is dismissed

### Appeal C

3. The appeal is dismissed

## Procedural matters

4. I visited twice so I could arrange to see the site from Butcher's Row.

## Main Issues

5. The main issue with regard to each of these appeals is the effect of the works on the special architectural and historic interest of this listed building, their impact on the setting of adjacent listed buildings, whether they would preserve the character or appearance of the Broadway Conservation Area, and whether they would harm the significance of any of these designated heritage assets.

6. A further issue relevant to Appeals A and C only is the impact of the development on the living conditions of neighbouring residents

## Reasons

### *The effect on the historic environment*

*The impact on No 35*

7. The appeal property is a Grade II listed building that is currently used as an art gallery. The oldest part of the building at the front is 2 storeys high with a third storey in the roof. Although there is conflicting evidence about its age, the listing details state it dates from the mid-18th Century with subsequent alterations. Its special architectural and historic interest, and its significance as a heritage asset, lie partly in the detailing and openings that reflect its age, as well as in its original proportions and materials that are still apparent.

8. The site has a complex planning history. However, drawing out what is most relevant to these appeals, in the mid-1980s, just before the building was first listed, a sizeable 2-storey extension was approved at the rear. While this is a large addition that conceals the historic part of the property when seen from behind, it nonetheless has rear-facing gables of a suitable proportion and, in places, appropriate materials. Beyond the 1980s addition the rest of the curtilage was substantially given over to an outdoor swimming pool and that does little to reflect the historic grounds of this former dwelling. However, that feature is scarcely visible from outside of the site.

9. In 2017 the decisions that authorised the building's change of use from a dwelling to an art gallery (the 2017 decisions) also included the enclosing of the rear with single storey additions to form a courtyard development. Listed building consent was then granted in 2019 for an extension over the courtyard (the 2019 consent) comprising 2, 2-storey wings, although the accompanying planning application was refused. Finally, in 2019 planning permission and listed building consent were granted for a single storey extension along the western boundary.

10. Scheme 1, which is the subject of Appeals A and B, proposes to form a flat roofed 2-storey extension broadly within what would be the courtyard area created by the 2017 decisions. However, to reduce its overall height its lower floor would be sunk into the ground to roughly the depth of the swimming pool. Despite this, I consider that the rear parapet running the full width of the existing wings would be striking and noticeable above the single storey elements around the property boundary, due to its form and scale. Moreover, it would also result in near total coverage of the rear area, and would mean that the total volume of extensions significantly exceeded that of the older part of the building.

11. Therefore, this scheme would not reflect the historic domestic nature of this property. Rather, it would appear as a dominant and discordant addition that would overwhelm the historic portion, and by virtually eradicating any sense of rear amenity area it would mask the character of its previous residential use. As a result, it would erode the special architectural and historic interest of No 35 and would cause harm, albeit less than substantial, to its significance.

12. The gabled treatment of Scheme 2, which I was told reflects that granted under the 2019 consent, would marry well with the existing rear gables on the property, though the relatively slight difference in ridge lines means the 2 new wings proposed would not appear particularly subservient. Moreover, as with Scheme 1 it would lead to the extensions built since the mid-1980s overwhelming and swamping the original property and resulting in a near loss of all rear outside space, so concealing the building's residential past. They would also be of a scale that failed to reflect the hierarchy and sense of subservience often found in rearward extensions and wings. For these reasons, I therefore consider it would detract unacceptably from the special architectural and historic interest of No 35, and cause less than substantial harm to its significance.

13. In considering these matters I accept the 2019 consent for Scheme 2 is still extant. I have also noted section 66 of the Act, which says the Secretary of State shall have regard to the desirability of preserving any features of special architectural or historic interest the building may possess when considering granting planning permission. The 2019 consent indicates the local planning authority considered then that Scheme 2 did not alter or extend the building in a manner that would affect its character as a building of special architectural or historic interest. However, having discharged my duty under section 66 of the Act in relation to the proposal for planning permission under Appeal C, I have come to a different conclusion in that respect. Consequently, as the 2019 consent cannot be implemented unless Appeal C is granted, the weight I afford it is not sufficient to outweigh the harm I have identified. As a result, while I have given it significant weight, the 2019 consent does not bind me in my decision-making in connection with Appeal C or, for that matter, the scheme pursued under Appeals A and B.

14. I have also had regard to the 2017 decisions and the various other permissions for single storey elements at the rear, but note they would have retained a courtyard and, certainly in the case of Appeal C, would have resulted in development of much less massing. Therefore, I consider the impact of these works is not comparable.

*Conservation Area*

15. The character and appearance of the Broadway Conservation Area is, in part, a result of the way its historic buildings, street pattern and open spaces reflect and illustrate its origins and organic evolution as a rural settlement of some age, and these inform its significance as a designated heritage asset. In this regard the special architectural and historic interest of No 35 contributes positively to this significance, even taking into account the 1980s extension.

16. Neither scheme would be readily apparent from the front, and so they would have no adverse effect when looking from High Street. However, the harm they would each cause to the listed building means they would be incongruous in the Conservation Area when seen from behind and, by harming the significance of No 35, they would erode the contribution it made to the wider historic environment. As such, they would not preserve the character or appearance of the Conservation Area, causing less than substantial harm to its significance.

17. I appreciate that dwellings and commercial premises are accepted along High Street, and both schemes would make the conversion of the property back to a house less likely. However, that to my mind is not a requirement of any new alteration or development in this part of Broadway and so is not a basis to resist either scheme.

*The settings of other listed buildings*

18. 31-33 High Street to the east is an attractive Grade II listed building of a domestic scale that stands at the back of the pavement, level with the older part of No 35. It dates from about 1800 and, by still demonstrating its age, its detailing and materials contribute to its special architectural and historic interest, and add to its significance. The 1980s extension means No 35 already extends back some distance beyond the rear elevation of No 31/33. As a result, both schemes would be visible only obliquely from inside this neighbouring property. Moreover, when looking from the south towards the proposed developments, No 31/33 is tucked away and substantially concealed from view. The developments would therefore not harm its significance by affecting its setting.

19. Butcher's Row runs at right angles to the street appearing to be a subservient wing to No 31/33. The Conservation Area Map indicates some of the row is listed, but the Council has said this is not in fact the case. However, assuming the Conservation Area Map to be correct, the significance of the older part of the row would lie to an extent in its detailing and the way in which its arrangement and scale reflect how the long narrow plots across Broadway were developed. Across the village though such rearward developments are commonly found amongst a variety of other rear wings and extensions at neighbouring properties. Furthermore, the gardens of Butcher's Row and the single storey element at the appeal site would ensure some separation remained between those properties and the schemes before me. As such, developing the back yard of No 35 in a relatively extensive manner, whether under Scheme 1 or Scheme 2, would not of itself adversely affect the setting of that terrace and so would not harm its significance.

20. To the other side of the appeal property, No 37 is a Grade II listed former bank that was built around 1915. Its attractive and sympathetic detailing contributes to its architectural and historic interest and its significance, while its solid form reflects its previous banking use. Across the rear and abutting the schemes before me is a relatively modern flat-roofed extension built of reconstituted blockwork. Its discordant nature and the way it substantially obscures the older parts of No 37, mean that neither scheme would harm the significance of that building by impacting on its setting.

21. Bay Cottage is to the east of No 35, which I also understand from the Conservation Area Map is listed. If so, its significance is derived partly from the way it is a relatively simple dwelling of its age, and its special architectural and historic interest appears to lie, to some extent, in its means of construction and detailing. Like Butcher's Row, this property sits behind those that front onto High Street, and so is seen amongst the less formal arrangement of wings and projections found to the rear. A distinct separation would remain between this property and each of the schemes before me, and so again I consider neither would harm its setting and its significance.

*The heritage balance and conclusions on this issue*

22. The *National Planning Policy Framework* (the Framework) states that heritage assets should be conserved in a manner appropriate to their significance. Moreover, any harm to the significance of any designated heritage assets should require clear and convincing justification. If less than substantial harm is identified to a designated heritage asset, that should be weighed against the scheme's public benefits (the heritage balance).

23. In this instance I have identified such harm from both schemes to the significance of No 35 and the Conservation Area. The public benefits cited concern the works prolonging the economic longevity of the asset and enhancing the existing employment use, to the benefit of the business, the listed building and the wider village. However, little further evidence on those matters is provided, and I have no basis to consider the use would cease and the future of the building would be compromised if these appeals were dismissed. Therefore, to my mind these points are not sufficient to outweigh the harm I have identified.

24. Accordingly I conclude that the works subject of each of these appeals would fail to preserve the special architectural and historic interest of the Grade II listed 35 High Street, and would also fail to preserve the character or appearance of the Broadway Conservation Area, causing less than substantial harm to the significance of both of these designated heritage assets. In the absence of any public benefits to outweigh this harm, the works would therefore conflict with Policies SWDP6, SWDP21 and SWDP24 of the *South Worcestershire Development Plan* (the development plan), which collectively seek development of a high quality design that will safeguard the significance of the historic environment

***Living conditions***

25. The front elevations of the small 2-storey cottages that make up the Butcher's Row terrace face eastwards towards the appeal site, across a narrow area that serves as their only outside amenity space. When account is also given to the tall wall running along the boundary with No 35 and the garage structure on the other side of that wall, this arrangement means those cottages already have a relatively enclosed outlook, whether looking from their ground floor, their first floor, or their outside amenity spaces.

26. Under Appeal A, Scheme 1 would increase the parapet wall marginally, but this would be set back from the boundary with Butcher's Row, on an alignment with the main side elevation of the existing wing at No 35. Given the limited increase in height and the distance from the boundary, I am satisfied this would not adversely affect levels of daylight, sunlight or outlook enjoyed in these neighbouring cottages to any material degree. As such it would not cause harm to the living conditions of their residents.

27. Turning to Scheme 2, whilst the 2019 consent granted listed building consent for these works, that decision was based on a heritage assessment and would not have involved a judgement about the effect on living conditions. Indeed, the accompanying planning application was refused because of its effect on light and outlook. Mindful too that it cannot be implemented at the moment, that consent does not therefore bind me in my decision.

28. 1 Butcher's Row is located immediately behind No 31/33 and so looks directly onto the principal side elevation of No 35. As such, it has a limited outlook now and the

works forming Scheme 2 would be to one side. Moreover, 4 and 5 Butcher's Row lie beyond the southern boundary of No 35, and so, despite the works, they would maintain a relatively open and light aspect in their rooms and gardens. 6 Butcher's Row stands apart from the terrace with windows facing northwards towards the works. However, there would be an appreciable separation and so any loss of outlook or light would not be unacceptable.

29. The remaining units in Butcher's Row, namely No 2 and No 3, look directly onto where this extension would be built. I understand these cottages have some rooms running across their width that have windows on the western elevation as well, looking over the adjacent tea garden. However, not every room in these houses has a second window, and where they exist they appear to be appreciably smaller than the ones on the east elevation and so do not provide the same benefits of outlook.

30. I have noted the findings of the daylight and sunlight report submitted by the appellant. Despite comments from neighbours, I have no basis to question its accuracy to any fundamental extent, and accept that any loss of either daylight or sunlight resulting from this scheme in the gardens or rooms of 2 and 3 Butcher's Row would not be unacceptable.

31. However, when looking eastwards from inside each of these cottages, whether from in the ground floor rooms or those on the first floor, I anticipate that there is currently a perception of openness created by the sight of sky above the existing garage at No 35. Furthermore, from what I saw in No 3 this openness is appreciated quite a way back into some of the rooms. Similarly, even though their gardens are dominated by the tall boundary wall on one side and the elevations of Butcher's Row on the other, in a substantial part the openness above the existing garage is nonetheless apparent. In this context, I consider that the proposed extension, which would nearly rise to the height of the existing ridge and would have a comparable eaves-line, would overwhelm these 2 cottages, and prove unduly overbearing both within their rooms and in their gardens. As a result, it would cause unacceptable harm to the living conditions of their residents.

32. In coming to this view, I have noted the presence of Bay Cottage and the Kennel Lane development, but they are set much further back from the Butcher's Row houses and do not have a comparable effect.

33. I am also aware that across Broadway are other properties with diminished outlook. However, some of these are historic relationships that go back very many years whilst others still allow the property a suitable aspect from some of its windows. I noted the new development on Russell's Square, but I am unaware of the layout of the building affected or the reasoning behind the decision. The weight I have therefore given these other examples is limited, and they have not been a basis for me to change my view that Scheme 2 is unacceptable in this regard.

34. Finally, Bay Cottage has a single storey modern extension on the boundary with No 35. Although light to the window in that extension could be affected, the window itself is fitted with obscured glazing and so any such impact would not be unacceptable.

35. Accordingly, I conclude that the scheme subject of Appeal A would not cause unacceptable harm to the living conditions of adjacent residents and so would not conflict with Policy SWDP21 in the development plan, which seeks, amongst other

things, new development that provides adequate levels of outlook and does not prove unduly overbearing. However, I also conclude that Scheme 2 subject of Appeal C would cause unacceptable harm to the living conditions at 2 and 3 Butcher's Row, in conflict with development plan Policy SWDP21. Again, I have treated the stated benefits this scheme would bring to the building's use as a material consideration but, for the reasons given above, this does not outweigh the harm caused and the identified conflict with the development plan.

***Other matters***

36. As the site is well within the built-up area, it would conserve the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty in which Broadway sits

**Conclusions**

37. For the reasons stated I conclude that each of these 3 appeals should be dismissed.

*JP Sargent*

INSPECTOR