



Appeal Decisions

Site Visit made on 12 October 2021

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Appeal A Ref: APP/A2470/W/21/3270691

Horse and Panniers, 12A Church Street, North Luffenham, OAKHAM LE15 8JR

- 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 C Milburn against the decision of Rutland County Council.
 - The application Ref 2020/1062/FUL, dated 16 September 2020, was refused by notice dated 16 November 2020.
 - The development proposed is Application to regularise matters with regards the property being used as two separate dwellings.
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Appeal B Ref: APP/A2470/Y/21/3270705

12A Church Street, North Luffenham, OAKHAM, LE15 8JR

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to listed building consent.
 - The appeal is made by Mr C Milburn against the decision of Rutland County Council.
 - The application Ref 2020/1063/LBA, dated 16 September 2020, was refused by notice dated 16 November 2020.
 - The demolition proposed is Application to regularise matters with regards the property being used as two separate dwellings.
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Decision - Appeal A

1. In respect of the regularisation of matters with regards to the property being used as two separate dwellings, the appeal is allowed and planning permission is granted in accordance with the terms of the application, Ref 2020/1062/FUL, dated 16 September 2020, subject to the conditions appended to this decision.
2. Appeal A is dismissed insofar as it relates to the fixed louvres and internal courtyard wall.

Decision – Appeal B

3. In respect of the regularisation of matters with regards to the property being used as two separate dwellings, the appeal is allowed and listed building consent is granted in accordance with the terms of the application, Ref 2020/1063/FUL, dated 16 September 2020, subject to the conditions appended to this decision.
4. Appeal B is dismissed insofar as it relates to the fixed louvres and internal courtyard wall.

Preliminary Matters

5. As this is a linked appeal I have dealt with the appeals together as and where appropriate, to avoid duplication.
6. The appellant has submitted an additional drawing at appeal which was not part of the application. It is stated that this provides further evidence to demonstrate the impracticality of using the building as one dwelling. Having reviewed the evidence and the planning history, I concluded that it was appropriate to accept this additional evidence and invited the Council to comment.
7. The appeal statement sets out that the applications for retrospective permission and listed building consent include alterations to the layout of the former bakery. However, the Council has not raised any concerns in this regard and I have concluded that there is no need for me to include this in my reasoning.

Main Issues

8. The main issues are:
 - Whether the development would preserve the Grade II listed building of the Horse and Panniers 12A Church Street and The Bakery 12 Church Street, or any features of special architectural and/or historic character that they possess, including setting, and whether the development would preserve or enhance the character or appearance of the North Luffenham Conservation Area (NLCA); and,
 - The effect of the development on the living conditions of future occupiers with particular regard to overlooking.

Reasons

Listed building

9. The listing comprises a U-shaped range of buildings which includes the former Horse and Panniers public house (No 12A) and a former bakery (No 12). Number 12A is a one and half storey stone structure with three dormers, dating from the 17th and 18th centuries, with a steep stone slate dual pitched roof under a brick ridge. Its external envelope appears largely unchanged and it has a highly attractive and distinctive principal elevation. Although No 12A is located with its gable end side on to Church Street, its principal elevation can be seen from Church Street across the modest courtyard, formerly used as a pub garden.
10. A single storey and part subterranean extension on No 12A's principal elevation, also with a distinctive stone slate roof, forms part of the courtyard's middle section. This is attached in turn to the one and half storey No 12 by a series of small scale and single storey structures. Number 12 is of mixed stone and brick construction, and appears in detailing, scale and typology to date from a later period than No 12A. Number 12 also has evidence of significant small scale alterations.
11. I conclude that the listed building's significance arises from its location, the evidential and historic social value of its former uses and the intact historic fabric. This reflects the use of local materials and distinctive vernacular

- detailing, particularly in the case of No 12A. The courtyard provides an intimate open space and setting from which the building in general and No 12A's principal elevation and its extension in particular, can be appreciated.
12. The proposals comprise the continued use of Nos 12 and 12A as two separate dwellings, each with its own area of the courtyard for use as amenity space. Fixed external louvres with the appearance of shutters would be attached to the frames of No 12's dormers and a ground floor window, as well as a half-height shutter on a former first floor door on No 12's gable end. These are proposed to address overlooking.
 13. There is limited evidence before me to indicate that the fixed louvres would be appropriate. There is a photograph of a shutter on a dormer window in the evidence, but it is unclear where this example is to be found. I saw fixed louvres on agricultural buildings in the area but did not observe anything similar to what is proposed on domestic buildings. I conclude that fixed louvres would be inappropriate and would diminish the underlying vernacular detail. Although they would be a minor addition, and No 12 and its outbuildings already have rather incoherent detailing, they would detract from appreciation of the listed building as a whole.
 14. A stone wall would provide an outer boundary to the amenity space, more or less along the line of the former pub garden's picket fence. There would be another wall which would bisect the courtyard and provide two amenity spaces. A low stone wall on the Church Street boundary would partly enclose the parking area.
 15. The design and construction of the proposed stone walls would appear to be appropriate in a context where many of the nearby period stone dwellings have similar boundary treatments. The outer wall would link Nos 12 and 12a across the width of the courtyard. A wall in this location would allow views into the courtyard and appreciation of No 12A's principal elevation from the public domain, as well as retaining its setting. I am satisfied that this would not diminish appreciation of No 12A's principal elevation or its setting. Moreover, the previous Inspector's concerns¹ appear to be related solely to the internal division of the courtyard, which included a tall section of fence next to the building. There is nothing before me to indicate that harm was found in relation to the existing picket fence or its location in that appeal, and I see no reason to disagree.
 16. From the public domain the internal wall would not be particularly intrusive as it would be the same height as the outer wall. However, although the map regression shows that Nos 12 and 12A were separated by a through route through the courtyard until at least 1952, I agree with the previous Inspector that any subdivision would be intrusive and diminish the appreciation of the building's setting. The wall on the road boundary would not have an adverse effect on the significance of the listed building.
 17. I conclude that the fixed louvres would diminish the significance of the listed building and would lead to less than substantial harm. The boundary wall and outer courtyard wall would have a neutral effect, but the internal courtyard wall would detract from the building's heritage significance and also lead to less than substantial harm. I am unclear whether the external stairs on No 12's

¹ APP/A2470/W/20/3255133 & APP/A2470/Y/20/3255132

gable end have significance in relation to the building's former commercial use, as they lead to a doorway. However, I conclude that their removal would not particularly detract from the listed building.

18. There is little information before me with regard to the NLCA. However, at my visit I noted that it appears to be characterised by a high proportion of stone buildings, particularly in the village core. The significance of the NLCA arises from its historic fabric and the underlying building pattern.
19. I conclude that the fixed louvres and internal courtyard wall would fail to preserve any features of special architectural and/or historic character that the building possesses, including setting. They would also fail to preserve or enhance the character or appearance of the NLCA. These works would therefore be contrary to Policies CS19 and CS22 of the Core Strategy (CS) and Policies SP15 and SP22 of the Site Allocations and Policies Development Plan (SAPDP), which taken together are concerned with the promotion of local distinctiveness and the conservation and enhancement of Rutland's historic environment. They would also be contrary to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the National Planning Policy Framework (the Framework).

Living conditions

20. The two dwellings would face each other across a courtyard at a distance of around 12 metres. There would be intervisibility between habitable rooms of each dwelling on the ground and first floors, and across the amenity space.
21. There are views of the shared courtyard from the windows of both Nos 12 and 12A, on both floors. The installation of fixed louvres on the dormer windows of No 12 would significantly block light entry in the long narrow bedroom as the only natural light would be coming from the part glazed door on the gable end. I also have concerns in relation to outlook from No 12's bedroom should these dormers have louvres attached and conclude that overall, this would be highly unsatisfactory accommodation. In any case the overlooking would not be mitigated by fixed louvres as they would not affect views from No 12A.
22. As such, I conclude that fixed louvres would not wholly address issues of overlooking. They would in any case be detrimental to the living conditions of future occupiers. The proposals would therefore be contrary to CS Policies CS15 and CS19 which taken together are concerned with residential amenity, and Paragraph 130 of the Framework which is concerned with providing a high standard of amenity for existing and future occupiers.

Heritage conclusion and planning balance

23. I have reached different conclusions in respect of different elements of the development and works. I have also concluded that given the nature of the proposals, they would be severable.
24. Paragraph 202 of the Framework notes that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use. The fixed louvres are only relevant to the proposed regularisation of use insofar as they address issues of overlooking. Having regard to Paragraph 202 of the Framework, I will

now consider whether the proposals before me are likely to represent the optimum viable use of the listed building.

25. The evidence before me indicates that the buildings now linking No 12A's single storey extension to No 12 and which form the southern boundary of the courtyard, were added in a piecemeal fashion. The contrasting materials and typology indicate that No 12A is likely to be the earliest part of the building. The survey indicates that there may have been an entrance to the part-subterranean extension, now kitchen, on its gable end. However, the gable end is now attached to No 12. There is nothing before me to indicate that there has ever been an internal link between Nos 12 and 12A, even when they were in single ownership.
26. Number 12A's kitchen floor level is significantly below the level of the courtyard and No 12's floor level. The eaves height of the party wall in No 12 is significantly lower than head height. To establish a link in this location, to enable the buildings to be used as one dwelling, would require alteration to the historic fabric. Moreover, even if a link could be established, the two storey wings would be linked by a narrow and convoluted route which would step down into No 12A's part subterranean kitchen and then step up again into No 12. Even if I attributed no harm to the potential loss of historic fabric, this appears to me to be a highly unsatisfactory configuration for a single dwelling.
27. Moreover, there is nothing before me to suggest that there are viable alternative uses. The appellant is living in one of the buildings and if the appeal is dismissed, the concerns arising from potential alternative uses of the other building would be likely to be similar to those raised for this application, namely proximity to a dwelling and the impact on heritage assets of works to enable alternative uses.
28. North Luffenham is a very small rural village, and although I do not have information before me with regard to the former commercial viability of the bakery or the public house, the fact that the businesses closed is suggestive of a lack of a customer base. Furthermore, the size, scale, condition and typology of the collection of buildings comprising No 12 in particular, as well as limitations on parking and wider accessibility, would set considerable constraints on any other potential uses.
29. Even if allowed as proposed, and on the basis of what is before me, I am satisfied that the use of Nos 12 and 12A as two dwellings is highly likely to be the optimum viable use for this building. There would be a small public benefit in the provision of one additional dwelling, albeit of modest size, in an established village. Moreover, both buildings would be occupied and maintained which would assist their preservation. It would also accord with Aim 4 of Rutland's Housing and Homelessness Strategy which seeks to reduce the number of vacant properties.
30. In addition, even if the proposed works were implemented, the core issue of overlooking would not be fully addressed.
31. With regard to the windows, I am unclear why fixed louvres are proposed as a means of mitigating overlooking. The Inspector for the previous appeal did not find any harm in relation to fixed louvres and notes that the Council did not have a concern in that regard either. Although I appreciate that that appeal

was determined after submission of this application, there seems to have been some inconsistency in the Council's decision making.

32. The design and access statement states that obscure glazing was dismissed as a solution at pre-application stage as it could be removed. However, in my experience obscure glazing is frequently required as part of a conditional permission and I see no reason why obscure glazing could not be deployed in this instance. This would allow light entry and remove the concern in relation to fixing inappropriate louvres on a listed building.
33. However, as the two dwellings are in the same ownership and there is no evidence before me that overlooking is a concern for current occupiers, I have concluded that it is not necessary for me to impose a condition regarding obscure glazing to make the development and works acceptable in planning terms. The windows are generally small and with the exception of the northernmost dormers at both No 12 and No 12A, there are limited views of the courtyard from inside the dwellings as a consequence of obstructions from roofs, window head height or overall size. Two of the dormers at No 12A are on the landing which would limit general viewing from those windows. Moreover, there is evidence before me that shared and overlooked courtyards are not uncommon in the area, where associated with historic building patterns.
34. It is also the case that the building's basic layout and configuration, and its position within the village set constraints on its ongoing occupation and use. It seems highly unlikely that there is an ideal scenario where the building is occupied and preserved in something akin to its current form without raising other planning concerns. I have concluded that appreciation and preservation of the building is likely to be best achieved by minimising features that might detract from the building's significance, even though there may be issues related to living conditions.
35. I appreciate that I have reached a different conclusion from the previous Inspector. However, I have information regarding floor levels that does not appear to have been available to that Inspector, which concerns viable use. In addition, No 12 is now proposed to be a one bedroom dwelling. I am also unable to find any harm in that appeal in relation to the existing picket fence which separates the parking area from the courtyard.
36. I acknowledge that the previous Inspector appears to raise concerns in relation to the extent of amenity space. However, this was not raised by the Council at application stage for that appeal, and it is not listed in the main issues for the previous appeal. Nor was it raised by the Council when this application was determined. I do not have the evidence available to that Inspector, and I agree that the courtyard has limited space. However, this does not alter my reasoning that I am satisfied that the development is the optimum viable use for this listed building and that the benefits arising from that use outweigh concerns in relation to limited amenity space.
37. As such and on balance, I conclude that the development and works should be allowed with regard to use as two dwellings, but dismissed with regard to the fixed louvres and the internal courtyard wall. It would be appropriate to issue a split decision.

Other matters

38. The Council had a concern that four parking bays would be required and there are only three shown on the drawings. However, No 12 would be a one bedroom dwelling and would require parking for one car only. As such the development would provide three parking bays and would not be contrary to Appendix 2 and Policy SP15 of the SAPDP regarding parking provision. In any case the previous Inspector did not find harm with regard to parking provision even though there would be three bays rather than the four required. In addition, the Council has withdrawn its objection to this reason for refusal. On the basis of what is before me I see no reason to disagree with the previous Inspector that the parking of one additional vehicle on the nearby road would not have a significant effect on road safety or parking stress.
39. The parish council has suggested that there would not be sufficient space for three parking bays and that there would be safety issues with vehicles manoeuvring in and of the space on this corner. The highways authority has raised issues in relation to visibility but their assessment is based on four parking spaces, rather than the three applied for.
40. Photographs of the site when in use as a public house show three marked parking spaces on site and the plans suggest that the proposed parking area would be larger than that space. There is nothing before me to indicate that this was a known hazard when the building was in use as a public house. As such I am satisfied that the proposals would not pose significant highway safety concerns.

Conditions

41. I have imposed conditions which set out the works allowed and the associated drawings for the avoidance of doubt. I have also imposed a condition requiring samples of stone and mortar details for the walls to be submitted to and approved in writing by the local planning authority, to safeguard the character and appearance of the area.

Conclusion

Appeal A

42. Appeal A is allowed insofar as it relates to the regularisation of the property being used as two dwellings, the removal of the outer staircase and the two boundary walls. Appeal A is dismissed insofar as it is concerned with the fixed louvres and internal courtyard wall.

Appeal B

43. Appeal B is allowed insofar as it relates to the regularisation of the property being used as two dwellings, the removal of the outer staircase and the two boundary walls. Appeal B is dismissed insofar as it is concerned with the fixed louvres and internal courtyard wall.

A Edgington

INSPECTOR

APPEAL A - SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg. No - 190389 00 Location Plan; Dwg. No 190389 101; Dwg. No. 190389 102 Rev B, excluding fixed louvres and the internal courtyard wall; Dwg. No - 190389 104, excluding internal courtyard wall.
2. The development hereby permitted is for the works shown on Dwg. No – 190389 102 Rev D, excluding the internal courtyard wall and fixed louvres.
3. With regard to the stone walls, no development above ground level shall be commenced until precise details of the stone and mortar to be used in construction of the wall have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

APPEAL B - SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg. No - 190389 00 Location Plan; Dwg. No 190389 101; Dwg. No. 190389 102 Rev B, excluding fixed louvres and the internal courtyard wall; Dwg. No - 190389 104, excluding internal courtyard wall.
2. The development hereby permitted is for the works shown on Dwg. No – 190389 102 Rev D, excluding the internal courtyard wall and fixed louvres.
3. With regard to the stone walls, no development above ground level shall be commenced until precise details of the stone and mortar to be used in construction of the wall have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.