



Appeal Decision

Site visit made on 23 May 2022

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 25th July 2022

Appeal Ref: APP/N4720/Y/22/3294707

9 East Parade, Leeds LS1 2AJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Dhand & Dhand Ltd against Leeds City Council.
 - The application Ref 21/07088/LI is dated 28 July 2021.
 - The works proposed are painting of Park Cross Street elevation.
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Decision

1. The appeal is dismissed and listed building consent is refused.

Procedural Matter

2. The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a failure to give notice within the prescribed period of a decision on an application for listed building consent. The Council did not issue a decision notice nor has it provided any putative reasons for refusal. Its statement indicates that its concerns lie with the effect of the works on the setting of the Grade I listed Town Hall on Victoria Square and the effect on the character and appearance of the Leeds City Centre Conservation Area.
3. In doing so, they have set out that they do not consider the painting of the façade to be harmful to the Grade II listed building, 9 East Parade (No. 9). Nonetheless, as the proposal relates to a listed building and a conservation area I have had special regard to sections 16(2) and 72(1) of the Act.

Main Issues

4. Given the above matters raised in the Council's statement, and the appellant's contention that the appeal building could potentially be treated as not listed, the main issues are:
 - Whether the building fronting Park Cross Street should be considered to be curtilage listed; and
 - Whether the works would preserve the special architectural or historic interest of the Grade II listed building at 9 East Parade (Ref: 1375358) and the setting of the nearby Grade I listed building Town Hall, Victoria Square (Ref: 1255772), and whether the works would preserve or enhance the character or appearance of the Leeds City Centre conservation area.

Reasons

5. The building to which the appeal relates is situated on Park Cross Street (the appeal building), directly to the rear of No. 9 which fronts East Parade. The appeal building is not specifically referred to in the list description. However, section 1(5) of the Act refers to any object or structure fixed to the building, and any object or structure within the curtilage of the building which forms part of the land and has done so since before 1 July 1948. Historic England Guidance advises that there are three key factors to be taken into account in assessing whether a structure is within the curtilage of a listed building. These are the physical layout of the listed building and structures, ownership, and the use or function of the relevant building both historically and at the date of listing.
6. The evidence set out in the appellant's Heritage Statement indicates that the appeal building was built around the 1930s, following demolition of a terrace of dwellings in this location. Following my site visit, I have no reason to disagree that it was originally constructed in this period.
7. Whilst the exact date of the connection of the buildings is unknown, there is a high probability that it took place between the 1930s to 1950s, when any former courtyard or gardens that existed between the two buildings started to become subsumed by development linking them at lower ground and ground floor levels (initially by a walkway). There is limited evidence before me to suggest that the buildings were initially linked beyond 1 July 1948. However, I am satisfied that the buildings would have been physically connected prior to the listing of the building in September 1975. This is by virtue of historic mapping and the appearance of the connecting structures.
8. The Council has recently granted listed building consent and planning permission¹ for a range of other alterations to both buildings in connection with a proposed change of use to a restaurant, and in the 1990s, a number of extensions and alterations were made to the central core which links the buildings. The works as applied for, and the floor plans before me, suggest that the buildings have not been physically separated for a significant time period, and that their uses (and ownership) have long been connected.
9. Given the above, and as there is no substantiated evidence to the contrary, I am satisfied that the Park Cross Street building is curtilage listed and as such I am dealing with the appeal on this basis.
10. The special interest of the listed building lies primarily with the main building situated on East Parade. No. 9 was built in 1757 as a residence for Whittel Sheepshanks, an important figure in Leeds at the time. It was remodelled in 1870 as a commercial property with the imposing ornate stone frontage on East Parade that can be seen today.
11. The appeal building has a more limited historic interest as a common example of a commercial building of this period. Nevertheless, it demonstrates a changing pattern of use in this discrete area of the city centre. Whilst unremarkable in its architectural detailing, it is only one of a few remaining period brick structures on Park Cross Street which is otherwise dominated by larger modern office buildings. It signifies a later phase of development of the

¹ 21/03267/FU and 21/03268/LI

listed building and consequently it has evidential value. Its façade is not read within the same context as the main elevation, but nevertheless it contributes to the special interest of the building as a whole and its preservation is therefore of considerable importance and weight.

12. The proposed works involve painting the facing bricks of the front elevation of the Park Cross Street building in a matt black colour. This is proposed in conjunction with its change of use to a restaurant and the considerable range of internal and external alterations which have been separately granted consent² by the Council, including double height black aluminium windows with a gloss finish.
13. Together with the approved alterations, the application of paint would undoubtedly modernise the appearance of the building. The use of paint on brickwork would be an incongruent and inauthentic treatment of this façade that would harm the fabric of the listed building and significantly disrupt the red brick colour palette of the street. This would be in addition to the approved double height windows that would result in a reduction in the area of brickwork. This elevates the importance of retaining its historic appearance.
14. It is possible for the previously approved alterations to be carried out independently of the proposed works before me. However, I am mindful that the appellants overall design scheme envisages them being carried out together, with the window types being selected to integrate with a black coloured frontage. Indeed, the black windows could well appear more pronounced against a backdrop of red bricks. I acknowledge that the Council finds no harm to the listed building, but I find the effects of the painting to result in harm to both the historic fabric and appearance of the building.
15. I now go on to consider the effects of the works on the setting of the Town Hall, which is a Grade I listed heritage asset of the highest significance. It dates from the 1850's to a design by Cuthbert Brodrick with sculptures by John Thomas. The building has significant historical, aesthetic and communal value, reflecting its high status in the city and its various municipal and community uses.
16. The Town Hall is located on Victoria Square, a short distance to the north of the appeal site. Its imposing principal frontage perpendicularly faces Park Cross Street and from here there is a striking vista towards its central section. This part of the building incorporates a wealth of historic and architectural features including a Corinthian columned portico atop sweeping stone steps, a decorative round-arched tympanum, together with Brodrick's distinctive baroque clock tower with lead dome and cupola.
17. All such features are visible when travelling northwards along the entire length of Park Cross Street, albeit they become more distant glimpses from the St Pauls Street end where it is partially obscured by street trees during the summer months. I agree with the Council that this view is fortuitous rather than designed, in providing an unexpected and intimate glimpsed vista. It highlights the role of the Town Hall as a focal point in this part of the city centre. Consequently, I find that the setting of the Town Hall, insofar as it relates to this appeal, is primarily associated with the ornamental and imposing

² 21/03627/FU & 21/03268/LI

Victoria Square frontage and the kinetic views which are possible from multiple locations along Park Cross Street.

18. The stone construction, decorative details and sheer scale of the Town Hall contrasts markedly with the predominately simply designed red brick buildings which line Park Cross Street, and this makes the building more eye-catching in the vista. Whilst the brick buildings are not of any particular architectural merit and are predominately late 20th century in appearance, their scale and siting to the back edge of the narrow highway provides a captivating frame to the views of the central section of the Town Hall.
19. The appeal building forms an integral part of the harmonious street scene of Park Cross Street. The application of black paint to the building, together with the approved alterations to its fenestration, would give it a stridently contemporary appearance and provide a break in the continuity of materials which characterise the Street. As a consequence, it would gain prominence in the view towards the Town Hall. Whilst the Town Hall would continue to remain the key focal point in the locality, I find that the disruption to the street scene would in turn result in harm to its setting when experienced in this context.
20. Park Cross Street forms a discrete part of the wider conservation area, which covers a large and varied area of Leeds city centre. There is a preponderance of contemporary development in the conservation area as a whole, amongst the imposing Victorian and Edwardian buildings at its core. Park Cross Street is anomalous given its former role as a 'service' street to the grander historic buildings which front the more formally laid out East Parade and Park Square East. It is clear that it experienced a significant amount of development in the late 20th century, with a range of red brick 3 and 4 storey office blocks.
21. The significance of the conservation area, insofar as it relates to this appeal, relates to the legibility of Park Cross Street as a service street to the historic buildings which front East Parade and Park Square East, and the framed view of the Town Hall. I have already found that the proposed works would generate harm to the special interest of both No. 9 and the setting of the Town Hall, and it follows that the effect of the proposed works would also result in harm to the significance of the Leeds city centre conservation area.
22. I concur with the appellant that a range of different coloured buildings are present nearby, and there are examples of dark brick detailing. I also found numerous examples which are faced with stone, and more recent structures with elements of coloured cladding. However, I could not locate any brick buildings whose frontages have been painted within the immediate vicinity, nor is there any evidence that they are commonplace in the conservation area as a whole.
23. Such variation in materials characterises many streets within the conservation area and there are some successful assimilations of different colours and textures. However, this former service street, within a discrete part of the conservation area, is characterised by its uniformity and it is this which will be disrupted by the application of paint. Regardless of the colour, painting the brick of historic buildings is in this case an unsympathetic and inauthentic treatment in attempting to secure long term maintenance of the original building material.

24. Paragraph 199 of the National Planning Policy Framework 2021 (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. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or development within its setting and that any such harm should have a clear and convincing justification. Given the scale of the building and its location amongst contemporary development I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
25. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The appellant is of the opinion that the proposal would be beneficial because less maintenance would be required and the works would signify major investment, allowing the creation of a prestigious building of contemporary design.
26. However, these are not sufficient to outweigh the harm that I have identified to the building, the setting of the Town Hall and to the conservation area. The continued viable use of the appeal property as a restaurant, or other commercial use, is not dependent on the proposed works. The premises could still be made a more attractive and viable commercial investment with the previously approved works alone. There are alternative, less damaging, methods available in terms of repairing the brickwork and its long term maintenance.
27. Given the above, and in the absence of any significant public benefit, I conclude that the proposed works would fail to preserve the special architectural and historic interest of the Grade II listed building, and the setting of the nearby Grade I listed Town Hall, as well as the character and appearance of the Leeds City Centre conservation area. This would fail to satisfy the requirements of the Act, and paragraph 199 of the Framework which anticipates great weight being given to the conservation of heritage assets. Furthermore, the works would fail to comply with Leeds Local Plan Core Strategy (2014; Selective Review 2019) and Leeds Unitary Development Plan (Review 2006) Policies N17, N20 and P11. Taken together and amongst other things these policies seek to ensure that heritage assets are conserved in a manner appropriate to their significance and that alterations to existing buildings preserve the historic environment. As a result the proposal would not be in accordance with the development plan.

Other Matters

28. I acknowledge the range of issues which have led to delays in the Council dealing with the application, but such matters have no bearing on my decision.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

Susan Hunt

INSPECTOR