



Appeal Decision

Site visit made on 10 August 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 05 September 2022

Appeal Ref: APP/W9500/F/22/3299638

West View Farm, High Street, Lockton, Pickering YO18 7QB

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Laura Winspear against a listed building enforcement notice issued by North York Moors National Park.
- The enforcement notice was issued on 18 May 2022.
- The contravention of listed building control alleged in the notice is:
 1. The removal of timber windows from the five openings on the west facing elevation of the building; and
 2. The insertion of upvc windows into the five openings on the west facing elevation of the building.
 3. The installation of a satellite dish on the west facing elevation of the building.
- The requirements of the notice are:
 1. Reinstate the previously removed timber windows. If these windows are no longer available exact replicas of the former windows should be installed consisting of purpose-made timber vertical sliding box sash windows incorporating 2 panes over 2 panes, all dimensions and mouldings to match the former windows. Sash boxes to include sash cords, pulleys and correctly balanced lead weights. Frames to be constructed from pre-formed, planed sections. Mouldings formed by router after assembly will not provide accurate replacements. Horns are not to be incorporated. Windows to be single glazed using untreated float glass (not Low-E glass);
 2. Repair any damage to the building incurred in undertaking step 1 of this Third Schedule using conservation based construction techniques. The sash boxes are to be recessed behind the front skin of stonework by 15mm and should be pointed around the exterior using a lime based mortar or burnt sand coloured mastic.
 3. Remove from the land any arisings that occur from undertaking step 1 of this Third Schedule.
 4. Remove the satellite dish on the west elevation and its fixings and associated wiring or cables from the building.
 5. Repair any damage incurred to the stonework or mortar in undertaking step 4 of this Third Schedule using conservation based construction techniques using a lime based mortar.
- The period for compliance with the requirements in Steps 1, 2 and 3 for restoring the Building to its former state is within 12 months and the period for compliance with the requirements in Steps 4 and 5 for restoring the Building to its former state is within 3 months.
- The appeal is made on the grounds set out in section 39(1)(a), (b), (c), (d) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PBLCAA) as amended.

Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld.
Listed building consent is refused for the retention of the works carried out in

contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

The appeal on ground (a)

2. An appeal on ground (a) is made where the appellant contends that the listed building is not outstanding and worthy of preservation in terms of its special architectural or historic merit. In this case, the appellant states that the building is not of special architectural or historic interest. Effectively, this ground of appeal constitutes an application to the Secretary of State to remove the building from the statutory list by virtue of the power set out in section 41(6)(c) of the PLBCAA. The Act indicates that the time at which this question is to be considered is the time before the allegation the subject of the LBEN was carried out, rather than the date when the LBEN was issued.
3. West View Farmhouse is a farmhouse built in the early to mid-nineteenth century of hammer-dressed sandstone with a pantile roof and brick stacks. Its exterior exhibits two storey symmetrical three window front with a low two storey single window side extension. At the time of listing in February 1985 there was a central twentieth century door with over light, four pane sashes with stone cills throughout with a small single-pane casement at attic floor level of the extension. There are painted lintels to all openings other than the sash in the side extension. Coped gables, shaped kneelers and end stacks to the house and a single end stack to the extension. To the frontage there are cast-iron fleur-de-lys railings with finials on a low stone wall attached to the front of the house.
4. The general principles for deciding whether or not a building is of special architectural or historic interest are set out in 'Principles of Selection for Listed Buildings'. Among other considerations, to be of architectural interest a building is to be of importance in its design, decoration or craftsmanship. Special interest may also apply to particularly significant examples of building types or techniques. For historic interest a building must illustrate important aspects of the nation's history and / or have closely substantiated associations with nationally important individuals, groups or events.
5. The Council considers that the special interest of the building is sufficiently intact to warrant inclusion as a listed building. The LBEN was served in order to uphold the quality of the building. No clear justification is given for the appellant's argument under ground (a) that the building is not of special architectural or historic interest other than stating that much safer and more environmentally friendly windows have been installed which do not affect the appearance of the building. These matters will be considered on the other grounds of appeal, below.
6. There is insufficient evidence before me to conclude that the building no longer meets the criteria for listed buildings and, furthermore, I am not aware that there was an application to de-list the building before the LBEN was served. The building is listed alongside other local properties and therefore, it has significant group value, as well as being of individual merit, which weakens any case advanced to de-list it.
7. I am unconvinced that the building is not of special interest or that the building should be de-listed. On that basis the appeal on ground (a) fails.

The appeal on ground (b)

8. An appeal on this ground should be made only on the basis that the matters alleged to constitute a contravention of section 9(1) or (2) of the PLBCAA have not occurred as a matter of fact. The appellant's only argument under ground (b) is that the satellite dish was already in place before she moved into the property in 2010 and is visible in photographs from 2012.
9. Clearly the timber windows have been removed from the five openings on the west facing elevation of the building, UPVC windows have been inserted into the five openings on the west elevation of the building and a satellite dish has been installed on the west elevation. As such, it does not make sense that an appeal on ground (b) has been advanced.
10. Therefore, irrespective of the argument by the appellant with respect to the satellite dish, the appeal on ground (b) fails.

The appeal on ground (c)

11. The ground of appeal is that those matters (if they occurred) do not constitute such a contravention. The only argument submitted by the appellant is that the new windows have not affected the character of the house. An appeal on ground (c) can only succeed if either listed building consent has already been granted for the works or if they do not affect the special architectural or historic character of the building. The ground is not concerned with the merits of the case which would be argued under ground (e). If the character or appearance of the listed building has been affected (either positively or negatively) then, in this case, there has been a contravention of section 9 of the LBCAA and the appeal on ground (c) must fail.
12. Therefore, the key question is whether or not the UPVC windows and satellite dish on the west elevation have affected the character or appearance of the listed building, as one of special architectural or historic interest. The replacement UPVC windows have replicated the sliding sash method of opening but in the light of the evidence before me they do not accurately resemble those timber sliding sash windows which they replaced. The UPVC windows have a relatively smooth, flat and uniform appearance which does not reflect the character of timber frames and the use of a plant on glazing bar rather than a structural bar, has given a rather flat appearance in the context of the historic frontage.
13. Furthermore, rather than using a traditional weight and chord mechanism for opening, the new windows appear to have a modern spiral balance construction. The UPVC does have a wood grain finish in an attempt to replicate the texture of a timber frame, but the use of the modern material is inappropriate as a replacement of traditional timber. The original moulding details have not been replicated and horns have been added. The changes that have been made have, individually and cumulatively, had an effect on the character of the historic property.
14. The satellite dish is a modern addition to the prominent front elevation of the house. Its materials, design and associated fixings and wires do not take account of the character and appearance of the frontage and therefore have a significant effect.

15. Therefore, in my judgement the replacement windows and satellite dish have significantly affected the character of the building. There is no listed building consent in place for the works and therefore, it follows that a contravention of the PLBCAA has occurred. Consequently, the appeal on ground (c) fails.

The appeal on ground (d)

16. This ground of appeal addresses situations where essential and urgent works were needed to preserve the listed building. The emphasis is on the words 'essential' and 'urgent'. The ground of appeal comprises three tests. The first is whether the works were urgently necessary in the interests of safety or health; the second is that it was not practicable to achieve the aims of safety, health or preservation of the building by repair or temporary support and the third test is that the works carried out were the minimum measures immediately necessary to achieve the aims of safety, health or preservation. For an appeal to succeed on ground (d) all three tests must be met and the onus is on an appellant to conclusively show that this is the case.
17. The appellant states that a single pane of glass fell out of a bedroom window, the bedroom windows are very low in relation to floor level and there were concerns regarding the safety of children. The appellant has also expressed concerns that the state of the original windows may be associated with health problems resulting from draught, condensation and damp and it was also difficult to maintain heat within the rooms. It is argued that the replacement UPVC windows are safer, better for health and more environmentally friendly.
18. Firstly, I accept that there may have been some health and safety concerns with respect to the windows, but there is insufficient evidence from the appellant to demonstrate that these could not have been addressed by repairing the timber frames, replacing unsafe panes of glass or other measures on a permanent or temporary basis. In addition, there is no evidence that the minimal works were carried out to achieve the aims of safety, health or preservation. The local planning authority was notified of the poor condition of the windows as set out in s9 of the PLBCAA.
19. I do not dispute the failure of a single panel of glazing but this does not alone justify replacing the five windows on the western elevation with unsympathetic replacement UPVC frames.
20. Given the failure to meet all three of the above tests, the appeal on ground (d) cannot succeed.

The appeal on ground (e)

21. The ground of appeal is that listed building consent ought to be granted for the works and therefore the main issue is the effect of the works on the special architectural and historic interest of the Grade II listed building.
22. Section 16(2) of the Act requires the decision-maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses.
23. Strategic Policy I of the North York Moors National Park Authority Local Plan July 2020 (the LP) relates specifically to the historic environment and requires

all development affecting the historic environment to make a positive contribution to the cultural heritage and local distinctiveness of the National Park through conservation and, where appropriate, enhancement of the historic environment. Heritage assets should be conserved in a manner appropriate to their significance, especially those assets which contribute most to the distinctive character of the area, including vernacular building styles, materials and form and layout of the historic built environment including Conservation Areas and Listed Buildings. Harm to an element which contributes to the significance of a designated heritage asset will require clear and convincing justification and will only be permitted where this is outweighed by the public benefits of the proposal. Substantial harm will only be permitted where it can be demonstrated that the proposal would bring substantial public benefits that outweigh the harm or there are other exceptional circumstances.

24. Policy ENV11 of the LP relates to development affecting the built heritage of the National Park and states that such development should reinforce its distinctive historic character by fostering a positive and sympathetic relationship with traditional architecture, materials and construction. Proposals will only be permitted where they conserve, enhance or better reveal elements which contribute to the significance of heritage assets and conserve or enhance the special character and appearance of the settlements including buildings which contribute to visual, historic or architectural character.
25. The evidence before me is that the windows on the front elevation of the property were traditional single glazed timber-framed with structural glazing bars and hung on a traditional weights and chords arrangement. Other features in the design of the frames included beaded mouldings and ovolo and fillet glazing bars of relatively slender proportions which constituted key features of the property, making a significant contribution to its character and appearance and its importance as an historic asset.
26. The significance of a heritage asset is the sum total of its heritage values and historic windows will usually be of such significance that every effort should be made to conserve them, as most historic windows will illustrate to varying degrees the materials, technology, craftsmanship and architectural style of the period in which the building was built. As set out above, the replaced windows contributed to the character of the building and added to its interest through the use of traditional timber frames and maintained the aesthetic value of the heritage asset.
27. There is insufficient evidence before me that repairing the windows and frames could not have been pursued, but instead standard plastic replacement windows have been used. This approach is harmful to the character and appearance of the listed building in terms of the windows themselves and the method of installation. Therefore, the plastic replacement windows are harmful to the special architectural and historic interest of the building.
28. In addition, the satellite dish is an overtly modern and visually prominent feature on the front elevation of the house. Its materials, design and associated fixings and wires do not take account of the character and appearance of the frontage and therefore have a significant effect.
29. Paragraph 193 of the Framework advises that when considering the effect of works on the significance of designated heritage assets great weight should be given to their conservation. It goes on to advise that significance can be

harmed or lost through the alteration of those assets. Given the degree of harm to the windows which are important features relating to the materials, technology and craftsmanship and architectural style of the building's period, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. The satellite dish and its associated fixings, wires and cables are harmful to the overall historical integrity of the front elevation of the property and that harm is less than substantial.

30. Although the Council has not referred to the effect of the works on the Conservation Area, Section 72 of the Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Due to the position of the works on the front elevation of the property, they are prominent from public views. Given the harm to the historic and architectural interest of the building and the poor relationship of the works to the frontage of the listed building, in particular, it cannot reasonably be argued that the works would preserve or enhance the character or appearance of the Conservation Area. As such, I conclude that the proposal would fail to preserve the character and appearance of the conservation area.
31. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the works, which includes securing the optimal use of the building. The appellant is of the opinion that the works that have been carried out would be beneficial because they would make the building more comfortable to live in. There is insufficient evidence that this could not have been achieved by other means, and, in any case, it seems to be that this is a private, rather than a public, benefit.
32. Given the above, and in the absence of any clearly defined public benefit or other exceptional circumstances, I conclude that the works have a harmful effect on the special architectural and historic interest of the listed building. This would fail to satisfy the requirements of the Act, the Framework and would conflict with Strategic Policy I and Policy ENV1 of the LP.

Formal Decision

33. I dismiss the appeal and uphold the listed building enforcement notice and refuse listed building consent for the removal of timber windows from the five openings in the west facing elevation of the building, the insertion of upvc windows into the five openings on the west facing elevation of the building and the installation of a satellite dish on the west facing elevation of the building carried out in contravention of section 9 of the planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

A A Phillips

INSPECTOR