



Appeal Decision

Site visit made on 19 July 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2022

Appeal Ref: APP/Z1510/W/22/3290083
59 Bradford Street, Braintree CM7 9AT

- 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 Mark Kenyon against the decision of Braintree District Council.
 - The application Ref 21/02635/HH, dated 20 August 2021, was refused by notice dated 21 October 2021.
 - The development proposed is Replacement of existing windows in Bedroom, Bathroom & Kitchen, and Terrace Doors in Lounge with new upvc windows and Repainting of exterior brickwork matching existing colour.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form states the development started on 1 July 2021 and accompanying photographs show the front window replaced, which reflects what I saw at my visit. Therefore, I have considered the development on the basis it is part-retrospective.
3. The appellant suggests that the Council could have approved a compromise whereby the front elevation was replaced with a sympathetically designed timber window. There is no suggestion this was formally put forward to the Council, and it has not been formally proposed in the plans and details before me. Therefore, I have considered the appeal based upon the submitted plans.
4. The Council's decision notice refers to the 'setting' of the Braintree and Bradford Street Conservation Area (BBCA). However, the appeal site is located within and not outside the BBCA. Therefore, I have not considered the matter of the effect upon the setting of the BBCA.
5. While not a reason for refusal, the evidence refers to Listed Buildings opposite the appeal site. Having regard to my statutory duties under section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (LBCAA), I have sought the views of the Council and the appellant in respect of this matter and taken them into account in determining this appeal. As a consequence, I have considered the matter as a main issue.
6. Since permission was refused, the Braintree District Local Plan (2022) (the BDLP) has been adopted. It supersedes the Braintree District Local Plan

Review (2005) and the Braintree District Local Development Framework Core Strategy (2011), and integrates the policies of the Braintree District Shared Strategic Section 1 Local Plan (2021). I have sought and taken into account the Council's and the appellant's views upon the adoption of the BDLP, which are reflected in my findings below.

Main Issues

7. The main issues are:

- the effect of the development upon the character and appearance of the BBCA; and,
- the effect of the development upon the setting and significance of Grade II Listed Buildings.

Reasons

Conservation Area

8. The appeal site comprises part of a brick and rendered two storey building in the BBCA, within which there is a statutory duty under section 72 of the LBCAA to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 199 of the National Planning Policy Framework (2021) (the Framework) requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to the significance of a designated heritage asset requires clear and convincing justification (paragraph 200).
9. The BBCA integrates historic thoroughfares within and to the north of the town centre. It derives its significance from the generally well-preserved historic and period buildings of differing architectural styles and ages, on and rear of historic streets, including Bradford Street. In proximity to the appeal site, a limited number of windows are double glazed, including a rear ground floor window below the appeal site, some limited buildings to its rear, two pairs of villas to the south, and a few dwellings further north. However, these are comparatively few in number. They do not comprise the prevailing character and appearance of either this part, or the wider BBCA. Neither do they positively contribute to the character, appearance and significance of the BBCA.
10. The appeal site building has been painted, some windows replaced, and some blocked-up. Despite this and its comparatively modest scale, it is an ornate building with much of the historic detailing still legible. This includes window arches, historic openings, decorative brick courses, stone detailing, and a variety of period timber window designs. The previous front window lacked some of the detailing of others. However, its thinner timber frames and glass, and the depth of panes and glazing bars within it, had a degree of coherence with the older windows below, to the side and opposite it. Overall, the appeal site makes a positive contribution to the character, appearance and significance of the BBCA. This is appreciable when approaching from the north and south on Bradford Street, and when in front of the building and access drive.
11. The new double glazed windows have thick UPVC frames, glazing bars and glass, and the installed front window appears to be set prouder of the opening. They are of a heavier appearance and lack the sympathetic proportions, materials and detailing of those they would replace. They would be a stark and

harmful contrast to many of the historic timber framed windows, forming the prevailing character and visible in the street scene. Three of the windows have visibility from Bradford Street to the front, a short distance north and to the south of the appeal site, harmfully affecting the character, appearance and significance of the BBCA.

12. For the reasons set out above, the development would have a harmful impact upon, and fail to preserve or enhance the character and appearance of the BBCA, adversely impacting upon its significance. As the harm is limited, it amounts to less than substantial harm. However, it would conflict with Policies LPP36, LPP47 and LPP53 of the BDLP. Amongst other things, these expect development to be of a high standard of design, materials to be compatible with the original building, the area and street scene, ensure no unacceptable impact upon heritage assets, and should protect and enhance the character and appearance of the historic environment, including Conservation Areas.
13. In-light of my findings the development would conflict with SA objective 10 and SA objective 15 referred to me by the appellant in respect of ensuring development does not detract from the character, appearance and essential features, and retains details that make a positive contribution to the character and appearance of the Conservation Area.

Listed Buildings

14. Paragraph 195 of the Framework explains that harm to the significance of a designated heritage asset can derive from development within its setting. Nos 46, 48 and 50 Bradford Street are Grade II Listed Buildings, which lie opposite and in close proximity to the appeal site. There is clear intervisibility between some of the appeal site windows and these designated heritage assets, such that the development clearly falls within their settings.
15. The significance of the listed buildings derives from their well-preserved historic construction, architectural features, detailing and traditional materials. These include brick and plastered elevations, tiled and slate roofs, and the arrangement and style of the historic windows, which feature in their listing descriptions. Notwithstanding some wider other examples of double glazing noted above, their setting positively contributes to their significance and the way they are experienced, as it forms part of the distinctive historic street scene encompassing a variety of historic buildings primarily with authentic features and traditional materials.
16. Given their materials, proportions and design, the pre-existing and existing windows are of designs that are sympathetic to, and overall, positively contribute to the traditional street scene. The new windows would appear as unsympathetic starkly modern additions, harmfully affecting the setting of the listed buildings. Noting the examples of existing double glazed windows, the harm from this development amounts to less than substantial harm.
17. For the reasons set out above, the development would be harmful to the setting and significance of, and therefore not preserve the setting of Nos 46, 48 and 50 Bradford Street. It would conflict with the aims of section 66 of the LBCAA which requires that special regard shall be had to the desirability of preserving a building or its setting or any features of special architectural or historic interest it possesses. This is similar to an objective of Policy LPP57 of the BDLP.

Other Matters

18. The appellant advises the development could comply with Policy LPP 62 of the draft plan as an enabling development. Proposals for enabling development require an assessment of whether the benefits of securing the future conservation of a heritage asset outweigh the disbenefits of departing from relevant policies. From what I saw the building, pre-existing and remaining windows are structurally sound, and there is no substantive evidence the windows or building are in a critical condition. It is also not demonstrated this development is the minimum necessary or least harmful means of preserving the building. Based upon the evidence before me, the benefits of securing the future conservation of the heritage asset do not outweigh the disbenefits of departing from relevant policies, and this matter attracts little weight.
19. I note the appellant's view that permitted development rights are available to houses to replace windows and that the Council should impose an Article 4 Direction, if it were of the view such development is harmful. In consequence the appellant believes the Council's decision is unfair to those owning maisonettes, and demonstrates inconsistent decision making. I am also informed the appellant is negotiating the freehold of the building.
20. Based upon the evidence before me, there is no Article 4 Direction in respect of windows in this part of the BBCA. I have considered the appeal development upon its planning merits based upon the evidence before me. Even if there was an Article 4 Direction it would not affect the planning merits of this proposal. As this development relates to a maisonette, there is no fall-back position available to the appellant and despite some examples nearby, such windows do not form part of prevailing character and appearance of the BBCA. Therefore, these arguments, while noted, attract little weight.
21. The appellant advises me he has been previously advised by the Council that planning permission was not required for the development. If this was the case it is clearly unfortunate. However, I have considered the proposal as put to me, on its planning merits, and this matter attracts little weight. The Council raises no objection to the re-painting the brickwork and based upon the evidence before me, I see no reason to disagree. However, this does not mitigate the other harm I have found.

Heritage Balance and Conclusion

22. I have concluded the development would result in less than substantial harm to the character and appearance of the BBCA and to the setting and significance of Grade II Listed Buildings. Paragraph 202 of the Framework states where a development would lead to less than substantial harm, the harm should be weighed against the public benefits of the development. However, great weight should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection.
23. The development would result in the renewal of some of the building fabric, provide added comfort to the accommodation, result in some energy efficiency and CO₂ savings, and a new coat of paint to the exterior. However, these benefits are very limited, constituting a very small public benefit. Therefore, the benefits of the development do not outweigh the harm to the setting and significance of the Grade II Listed Buildings or the character, appearance and

significance of the BBCA. Therefore, the development also conflicts with paragraph 202 of the Framework. This attracts great weight.

24. The development would conflict with the development plan and the Framework read as a whole, and the aims of sections 66 and 72 of the LBCAA. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan or the Framework. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR