
Appeal Decision

Site visit made on 27 October 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 24th May 2023

Appeal Ref: APP/H0724/F/22/3305285

Seaton Hall Residential Home, 10 The Green, Seaton Carew, Hartlepool TS25 1AS

- 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 Mr Arnold Wilks against a listed building enforcement notice issued by Hartlepool Borough Council.
 - The enforcement notice is dated 14 July 2022.
 - The contravention of listed building control alleged in the notice is: Without listed building consent, the installation of uPVC windows at ground floor level.
 - The requirements of the notice are: (i) Remove the existing uPVC windows. (ii) Restore the windows to their condition before the breach took place.
 - The period for compliance with the requirements is three months.
 - The appeal is made on the grounds set out in section 39(1)(e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 7^h February 2023.

Decision

1. It is directed that the enforcement notice be varied by deleting 'three months' from the period for compliance and replacing it with 'six months'.
2. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld, and listed building consent is refused.

The appeal on ground (e)

3. Ground (e) is that listed building consent ought to be granted for the works

Main Issue

4. The appeal site is listed for group value along with Nos 7, 8, 9, and 11-13, which form the west side of the terrace facing towards the seaside. The appellant contends that it is unclear as to whether No 10 would have been listed had it not been part of a group.
5. However, if a building is considered by the Secretary of State to be of special architectural or historic interest, it will be included in a list of such buildings. The special interest may arise from the contribution the building makes to the architectural or historic interest of any group of buildings of which it forms part. By definition, the contribution of such a building resides in its physical characteristics, and any historical interest that may be discerned in those

characteristics. Crucially, its preservation carries the considerable importance and weight as any other listed building.

6. Therefore, the main issue is the effect of the works on the special interest of 10 The Green, which is a grade II listed building.

Significance

7. The property at No 10 is now in use as a residential care home. At the time of its listing in 1985, it was the Seaton Hall Hotel, and was built as the Kings Head Inn in c1803. It comprises a three storey section and a two storey section with rendered and painted frontages and Welsh slate roofing. At the upper levels are sash windows whose heights and styles vary. In around 1900, the rectangular plan timber bay windows were added to the ground floor. These have distinctive angle pilasters and cornicing. A similar bay forms the porch around the main entrance door.
8. The later ground floor bay windows are typical of the style of window that was appearing in late Victorian and early Edwardian commercial buildings. The arrival of plate glass allowed for much bigger windows than was previously possible. The weight of these new panes led to the need for 'chunky' frames, to use the appellant's term, and the large frames that were removed were entirely typical of the architecture of their time.
9. Commercial architecture has always placed a high premium on novelty and effect, and these larger windows were a key factor allowing businesses to promote their facilities and attract greater attention. In this case, this change also reflects the rise of the seaside holiday which was greatly facilitated by the growth of the railway system. Therefore, the frontage of No 10 encapsulates the social history of the area. Despite some changes, the overall historic form and character of the listed building remains legible, and the factors I have identified contribute to its significance.

Effect of the works

10. Although the timber bay surrounds have been retained, the timber window frames have been replaced with uPVC units of similar overall dimensions. However, these new units depart from the design of the previous windows in a number of key ways. They have a bland, flat appearance that fails to replicate the distinctive heavy moulding of the timber units. The streamlined, cleaner and neater appearance the appellant refers to is not historically accurate.
11. From the photographs, it is clear that there was a distinction between the heavy two-paned sections and the small narrow lights above. It is unclear from the evidence whether these upper lights opened in some way for ventilation, or perhaps contained a more decorative element similar to a fan light over a door. In any event, the new uPVC windows do not reproduce this form of construction, and therefore depart significantly from the character of traditionally constructed timber windows they replaced.
12. uPVC is a synthetic material whose smooth, shiny, modern appearance does not satisfactorily capture the appearance of the traditional painted timber finish of the previous windows. It is well established that uPVC and painted timber do not age in the same way. Unlike uPVC, painted timber tends to take on a mellow patina of age that complements the natural materials of historic buildings.

13. Although there are some instances of the use of uPVC windows in the area, I saw on my visit that these are in the minority. For the most part, the character of the terrace is informed by painted timber fenestration. By the same token, the majority of the remaining windows at No 10 are timber. I also observed that the unauthorised windows can be seen clearly and at close quarters from the pavement in front of the building. That being the case, the use of a modern material and the lack of detailing of the frames are obvious to all but the most casual of observers.
14. The appellant also refers to the replacement of the lead covering of the bays with felt. However, this unsympathetic alteration of the building does not justify the further harm arising from the new windows.
15. Taking these factors in combination, I conclude that the works unacceptably harm the character, appearance and significance of the appeal site.
16. Accordingly, in view of the harm I have identified to the listed building, the works conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, and with the National Planning Policy Framework (NPPF). In addition, the appeal scheme conflicts with Policy HE1 of the Hartlepool Local Plan, which seeks to preserve, protect and positively enhance all heritage assets.
17. Although serious, the harm to the heritage asset in this case is less than substantial, within the meaning of the term in paragraph 195 of the NPPF. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where there is less than substantial harm, the harm should be weighed against the public benefits of the works.
18. The windows serve both bedrooms and lounge areas for the residents of the home. The old windows were draughty, and it appears that the secondary glazing did not adequately address the problem. I have taken into account the need for a warm environment in the winter, and for cooler temperatures in the summer. However, there is little evidence that these benefits could not have been achieved through a more sympathetic scheme of works.
19. It is clear that the listed building has undergone changes over the years, and will no doubt continue to do so in the future. However, this fact does not justify changes that would harm the significance of the building.
20. The appellant also highlights one incidence where uPVC windows were allowed in a listed building at 1 Albion Terrace. As few details of this case are given, I am unable to be certain if it is directly parallel to the case before me, which limits the weight I can afford it. The other examples are of unlisted buildings in the conservation area. However, in view of the lack of detail, I cannot be certain of the circumstances in which these developments were found to be acceptable. I cannot take a view on whether the Council has been consistent or not, based on the evidence before me.
21. The appellant also refers to the additional cost of installing replacement timber windows, over and above the cost of uPVC windows. He provides a link to an article that provides a generalised overview of the relative costs. It is unclear if he sought any specific comparative quotations for this particular building.

Although he raises issues of the sustainability and viability of the care home, he provides no detailed quantitative evidence that would allow me to undertake a meaningful assessment.

22. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. It also fails to comply with the NPPF's environmental objective of protecting and enhancing the historic environment.

Conclusion

23. For the reasons above, the appeal on ground (e) fails, and listed building consent is refused.

The appeal on ground (h)

24. Ground (h) is that the period specified in the notice within which any step required by the notice is to be taken falls short of what should reasonably be allowed.
25. The enforcement notice gives a compliance period of three months. The appellant confirms that the old windows have been disposed of and cannot be reclaimed. New windows will therefore have to be made, and the appellant suggests that 18 months is the minimum time required. However, such a timescale would not be tenable. To allow the harm to the listed building to persist for such a long period would not be justified, would call into question whether it was expedient for the Council to enforce in the first place, and would erode the confidence of the public in the efficacy of the planning system.
26. However, I agree that three months would be a tight period for the construction of timber windows of a bespoke design. In my experience, there tends to be a longer lead-in time for engaging a suitable contractor and carrying out what is quite specialist work. I therefore consider that six months would be more reasonable.
27. The appellant also refers to the cost of having to replace the unauthorised windows. However, as he effectively incurred these costs himself by carrying out the works without listed building consent, this factor in itself does not justify any further extension of the stated time period.
28. However, the appeal on ground (h) succeeds to the extent that the compliance period is varied to six months.

Conclusion

29. For the reasons above, the appeal is dismissed, the listed building enforcement notice, as varied, is upheld, and listed building consent is refused.

Elaine Gray

INSPECTOR