

Appeal Decisions

Site visit made on 6 June 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 3 July 2023

Appeal A: Ref: APP/K0235/W/23/3314241

34 Day's Lane, Biddenham MK40 4AE

- 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 Shailesh Patel against the decision of Bedford Borough Council.
 - The application Ref 22/01999/FUL, dated 5 September 2022, was refused by notice dated 28 October 2022.
 - The development proposed is replacement of existing windows.
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Appeal B: Ref: APP/K0235/Y/23/3314243

34 Day's Lane, Biddenham MK40 4AE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Shailesh Patel against the decision of Bedford Borough Council.
 - The application Ref 22/02000/LBC, dated 5 September 2022, was refused by notice dated 28 October 2022.
 - The works proposed are replacement of existing windows.
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Decision

1. Both appeals are dismissed.

Preliminary Matters

2. As set out above, there are two appeals on this site. They relate to the planning application and listed building consent for the same scheme. To avoid duplication, I have dealt with them together, except where otherwise indicated.
3. Planning Permission and Listed Building Consent were given in 2018 for single storey rear extensions, alterations and repairs to the appeal property (Ref.18/00877/FUL and 18/00878/LBC). As part of this approval, two new windows were permitted in the existing building (subject to Condition No.5, approval of details). The approved scheme also permitted the repair of all existing window frames/casements and their reglazing with slim-profile double glazed units or secondary glazing for windows with insufficient rebate or those lacking structural strength. The information submitted to discharge Condition 5 of 18/00878/LBC indicates that details of the two new windows were approved. The Officer Report relating to this condition discharge clarified that all existing windows were to be repaired and no approval was given for their replacement.

Main Issue

4. The main issue in both appeals is whether the proposal would preserve the Grade II listed building (listed as White Cottage) and any of the features of

special architectural or historic interest that it possesses and whether it would preserve the significance of the heritage asset.

Reasons

5. The building was listed in 2016 (Ref.1432299) and is an Arts and Crafts House built in 1908 to the designs of C.E. Mallows. The list description states that the building is listed for the following principal reasons: Its architectural interest, the internal treatment, its named architect, and its strong Group Value with three other Arts and Crafts houses in Biddenham which are listed buildings, including one by Mallows and two by Baillie Scott. This group is described as being nationally very important as the architects were two of the movement's most talented and influential exponents. In relation to the architectural interest of the appeal premises, the list description states *'It has a good composition that subtly draws on elements of the vernacular to evoke English architectural traditions whilst being assembled in a contemporary way. Many original fittings and fixtures survive, notably windows, doors and ground floor fireplaces, providing a good example of a modest Arts and Crafts house which are relatively rare on the List'*. The description mentions the simple elements incorporated into the interior to convey homeliness appropriate to a cottage which was enhanced by striking detailing but still built economically.
6. The list description describes the exterior of the building including the horizontal casements with a varying number of small, square-paned lights with lead drip mouldings and flush cills. It also contains significant detail on the interior fixtures and fittings showing the careful selection of materials and the importance of its design features including windows. It mentions that many original windows survive along with the ironmongery and describes the vibrant green tiled cills, and red tiled cills in subsidiary areas.
7. The appellant's Design and Access Statement includes details of the building's history together with copies of published, original drawings and plans. From the details available to me, including the listing description, I consider that the significance and special interest of the listed building, insofar as it relates to these appeals, is predominantly derived from its age, form, fabric, its architect and the connection with the Arts and Crafts movement, and its architectural features, including the historic windows.
8. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
9. Windows are often a key feature of an historic building, are an integral part of its design and can provide evidence of its age and phasing. In this appeal the windows are clearly referenced by Historic England confirming that they are a key part of the building's significance/special interest. They make an aesthetic contribution to the building, many still retain historic fabric, demonstrate traditional workmanship practices, and are an important element of its design both externally and internally. The appellant's Heritage Statement also acknowledges that the windows and fittings make an aesthetic contribution to the character of the house (paragraph 3.14).

10. I noted on my visit that the windows proposed for replacement were predominantly installed flush with the outer face of the wall, the casements were flush fitting with the external frame, they had relatively narrow sections, glazing bars had a square profile internally with the glass secured with putty, and most were without projecting cills. Internally, nearly all windows had distinctive ironwork fittings including substantial stays and latches and large, highly glazed green tile window cills or red tile cills. Although there was some subtle variation in their design, it was noted that even the more recent windows, including those in later phases of the building, predominantly respected the overall design with similar proportions and sections, flush casements and squared internal glazing bars. Some windows incorporated secondary glazing with matching vertical divisions to the frames.
11. The proposed works would comprise the replacement of all existing windows (excluding those linked to the previous approval) with thin double-glazed units. There is some ambiguity in the details provided as to the appearance and specification of the proposed windows. The appellant's Heritage Impact and Justification Statement advises that the replacement windows would match the style, section, shape and colour of those existing. Similarly, the appellant's appeal statement suggests that they would be replaced on a like-for-like basis and would be visually undistinguishable from the windows they replace. However, the Design and Access Statement states that the proposed windows would match the style and section of the windows approved under Condition 5 of 18/00878/LBC. The drawn details submitted with the application confirm this latter statement and are also referred to in the appellant's appeal statement. I have therefore determined the appeal having regard to these drawn details.
12. The drawn details show externally storm-proofed frames, structural glazing bars incorporating 12mm double glazed units, moulded internal glazing bars and frames, projecting timber cills and the window units recessed back from the front face of the building. The methodology statement indicates that the glass would be secured with putty, although the drawn detail also shows the glass secured into a frame with timber beading. Trickle vents are specified for all sitting rooms and bedrooms, although no details are provided.
13. The Heritage Assessment identifies that approximately half of the existing windows in the building (excluding the recent extension) are original to the 1908 build with the remainder relating to a 1933 extension or later adaptations. Of these windows, the assessment identifies that only one is considered beyond repair, with several others in need of significant repair. However, for most windows, the defects listed suggest more minimal repairs or need for localised replacement such as replacement cills/glazing bars, displaced rails and a need for repainting. Historic England Guidance in the document 'Traditional Windows: Their Care, Repair and Upgrading' (2017) advocates repair over replacement of historic windows wherever possible, and that surviving historic fenestration is an irreplaceable resource (page 3).
14. There is no doubt that the windows are in a varying state of repair and in some cases their condition is poor. However, the assessment of condition is described as a superficial observation and not a formal condition survey, and it is not sufficiently detailed to tell me whether the windows can be repaired. Nor does it tell me whether any of the window frames could be thermally upgraded in the manner previously approved. Therefore, considering that in 2018 the windows were considered capable of repair and thermal upgrading, that the

recent survey only identified one window considered beyond repair and in the absence of a more detailed condition survey, I have insufficient evidence to convince me that all the windows need replacing. With many windows original to the build or its later phase, replacing all these windows would result in the complete eradication of this historic fabric which would be harmful to the special interest/significance of the listed building.

15. From the drawn details submitted, the proposed windows would have a very different appearance to the existing windows. Features such as the recessing of the windows within the opening, the storm-proof casements, the thicker sections, the difference in glazing bar profile and the projecting cills would all result in pronounced visual changes. Furthermore, the lack of detail regarding the proposed trickle vents, reuse of the distinctive ironmongery and the impact of recessing the windows on the glazed tiled cills would potentially result in more harm to the special interest/significance. There is no evidence before me to suggest that the details of the existing windows have been appreciated and understood, including the importance of these details to the Arts and Crafts design as a whole, or that any careful consideration has been given to their faithful replication. Consequently, the windows, would be clearly identifiable as modern replacements, appear jarringly out of place and have a harmfully erosive effect on the appearance and historic character of the listed building. A joinery condition would not resolve the issues highlighted above, including the loss of historic fabric.
16. Notwithstanding the fact that the Council approved similar drawn details for the proposed two new windows in the existing building in 2018 and has raised no objection to the design of the replacement windows which are subject to this appeal, I must have regard to my statutory duty. In my view, based on the above observations, the design and siting of the proposed replacement windows would be extremely harmful to the building's special interest/significance.
17. Considering the proposed unjustified loss of historic fabric and the inappropriateness of the window design and siting, the proposal would fail to preserve the special interest and significance of the listed building. Therefore, the expectations of the Act are not met. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification. I find the harm in the context of the significance of the heritage asset as a whole, in the language of the Framework, to be less than substantial in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal.
18. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use. The appellant is of the opinion that the proposal would be beneficial because the windows have decayed frames, don't fit or operate effectively, are not secure and let the water in making the building damp and unhealthy to live in. The proposed

windows would prevent the further deterioration of the historic fabric of the building and make it more thermally efficient.

19. Whilst the thermal upgrading of windows, eradication of damp, securing the historic fabric and security are matters which may reasonably be considered a public benefit, it has not been demonstrated that such improvements could not be achieved through alternative means, so avoiding the harm identified to the designated heritage asset. For example, regarding thermal improvement, I have no evidence why the existing window frames cannot be repaired and upgraded in the manner approved by the Council in the previous consent or why secondary glazing would be inappropriate. Such measures are advocated in the Historic England guidance document. As such, I consider that little weight can be given to these modest benefits.
20. Whilst the proposal would be beneficial to the appellant's living conditions, achieving the desire for all windows and fittings to look the same and initially reducing the need for more regular maintenance, I regard this as a private rather than a public benefit. Moreover, I have been given no evidence that the continued viable use of the appeal property as a residential dwelling or its maintenance is dependent on the proposal, as the building has an ongoing residential use that would not cease in its absence.
21. Reference is made to the aspiration to reinstate the original architect's design concept. However, whilst the building has been extended and adapted over time, the subtle variation in window detailing is now part of the building's integrity and its historic character.
22. Given the above, I conclude that the public benefits would be of insufficient weight to outweigh the great weight to be given to the harm to the Grade II listed building. As such, the proposal would not comply with paragraph 202 of the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the listed building.
23. The proposal would fail to preserve the Grade II listed building and any of the features of special architectural or historic interest that it possesses and would not preserve the significance of the heritage asset. It would fail to satisfy the requirements of the Act and paragraph 199 of the Framework. It would also conflict with Policies 29 and 41S of the Bedford Borough Local Plan 2030 (2020). These policies, amongst other things, seek to protect and enhance the significance of heritage assets. As a result, the proposal would not be in accordance with the development plan as a whole.

Conclusion

24. For the above reasons, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

G Bayliss

INSPECTOR