



Appeal Decision

Site visit made on 14 June 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2023

Appeal Ref: APP/V3120/Y/22/3292008

Old Rose Cottage, 44 North Street, Marcham, Abingdon OX13 6NG

- 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 Dr Eleanor Ford against the decision of Vale of White Horse District Council.
 - The application Ref P21/V2651/LB, dated 14 September 2021, was refused by notice dated 10 November 2021.
 - The works proposed are described as 'Retrospective approval for the damp-proofing and new partition works [Completed]; and, b) repair and restoration works to the rear lean-to roof, inc replacement of rainwater goods [Proposed]'.
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Decision

1. The appeal is dismissed insofar as it relates to damp-proofing. The appeal is allowed insofar as it relates to new partition works, and repair and restoration works to the rear lean-to roof, including replacement of rainwater goods, and listed building consent is granted for new partition works, and repair and restoration works to the rear lean-to roof, including replacement of rainwater goods, at Old Rose Cottage, 44 North Street, Marcham, Abingdon, OX13 6NG in accordance with the terms of the application, Ref P21/V2651/LB, dated 14 September 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
 - 2) The design, materials, and specification of the proposed rainwater goods to be used on the rear lean-to roof, including 1:20 scaled drawings, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The works shall thereafter be carried out in accordance with the approved design, materials, and specification.

Procedural Matters

2. I have amended the description of works set out in the banner heading to omit superfluous information that does not form part of the description of works. The description is therefore 'damp-proofing and new partition works, and repair and restoration works to the rear lean-to roof, including replacement of rainwater goods'. Moreover, I observed on site the works proposed generally appear to have been carried out, including those to the rear lean-to. Therefore, I have determined the appeal on the basis that the works have, in part, already occurred, having regard to the application plans and information.
3. Listed building appeals are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004, so they do not need to be determined in

accordance with the development plan. This is further confirmed by the lack of a requirement in section 16(2) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) to have regard to the development plan when determining applications and appeals for listed building consent. Core Policy 39 of the Part 1 Local Plan¹ (P1LP), Development Policy 38 of the Part 2 Local Plan² (P2LP), as well as the National Planning Policy Framework (the Framework), are therefore material considerations only.

4. Section 72(1) of the Act confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. The Decision Notice does not infer harm to the Marcham Conservation Area (CA) but this duty still applies to the appeal.

Main Issue

5. The Officer Report and Decision Notice only state concerns regarding the proposed damp-proofing works, and none of the other elements listed above. The main issue is therefore whether the proposed damp-proofing works preserve a Grade II listed building, Old Rose Cottage, and any of the features of special architectural or historic interest that it possesses.

Reasons

Special Interest and Significance

6. The appeal concerns the Grade II listed building, Old Rose Cottage³, a cottage arranged on a 2-cell plan with rooms in its attic space and constructed of coursed limestone rubble beneath a gabled thatch roof, with stone chimney stacks to either end. The cottage was likely built in 1725, but enlarged at various times with three rear lean-to additions of varied height and materials.
7. Although the listing description notes the interior of the property was not inspected, it is for identification purposes only and does not form an exhaustive list of the features of the cottage that are of special architectural or historic interest. Moreover, the legibility of its floor plan and the nature and form of construction of its internal and external built fabric are also important to understanding its special interest and significance.
8. Despite alterations to the floor plan of the cottage and the addition of rear lean-to extensions, insofar as it relates to the appeal, its special interest is to be found in its architectural and historic interest as a gabled thatched cottage from 1725. In particular, the layout of the building's rooms and its historic fabric, in terms of the traditional natural materials and construction techniques used, are important to its understanding and, thereby, its significance.

The Proposal

9. The works already undertaken and relevant to the main issue concern three separate elements of damp-proofing of the cottage. Firstly, the injection of a Thixotropic Silane/Siloxane cream into some of its walls. Secondly, applications of 'cementitious' structural waterproof render to a height of 1.5 metres on some internal walls. Finally, the excavation of existing concrete floors and their replacement with new concrete, including screed in the lean-to. This has been

¹ Local Plan 2031 Part 1 – Strategic Sites and Policies (Adopted December 2016).

² Local Plan 2031 Part 2 – Detailed Policies and Additional Sites (Adopted October 2019).

³ List Entry Number 1048365.

overlaid with carpet in the sitting and dining rooms, timber flooring in the conservatory, and tiles in the kitchen.

Effect of the Proposal

10. The appellant acted in good faith to deal with damp experienced in the listed building and sought technical advice, albeit not from a heritage specialist and she accepts that advice was incorrect. Whilst the building's form as an early-18th century vernacular cottage is still discernible, the damp-proofing has diminished its architectural interest by directly and irrevocably affecting the basic material from in which it was historically constructed.
11. The appellant has confirmed it is not possible to reverse the harm caused by the damp-proofing process and it has reduced its breathability. In particular, the cream injected into historic fabric has changed the chemical characteristics of those parts injected, which cannot be undone. Furthermore, it is clear the damp-proof plaster added to the walls of certain rooms has resulted in harmful loss of some historic plaster, which would have contributed to understanding of its special interest and significance.

Public Benefits and Conclusion on the Main Issue

12. The statutory duty in Section 16(2) of the Act is a matter of considerable importance and weight, as are the aims of Framework paragraphs 197, 199 and 200.
13. The damp-proofing works are harmful to the historic fabric of the cottage, fail to preserve its special interest and, therefore, harm its significance as a designated heritage asset. The harm that I have identified equates to less than substantial harm to this designated heritage asset. Accordingly, paragraph 202 of the Framework identifies this harm should be weighed against the public benefits of proposals, including securing its optimum viable use.
14. Consent for the damp-proofing works undertaken would provide certainty to the appellant or future owners to encourage investment in future maintenance of the property or its purchase. There is also agreement between the main parties that the threat of enforcement action is difficult to quantify, as principal aspects of the works could not be reversed. Despite this, the statutory duty of the Act is unequivocal, and the effect of the damp-proofing works left me with no other option than to determine that they do not preserve the special interest of the listed building. Having regard to the advice in the National Planning Practice Guidance as to what constitutes a public benefit, it is clear 'regularising the listed building consent situation' does not constitute one.
15. Furthermore, the remainder of the fabric of the building would still be capable of being preserved and maintained by its occupiers, which would continue to contribute to its special interest. The property would also remain capable of functioning as a dwellinghouse, the use of which is unlikely to cease in the absence of consent for the works.
16. Even if the extent of damp experienced within the property required intervention, in terms of sustaining the long-term future of the listed building, there is no compelling evidence before me that this could not have been achieved by an alternative, more sympathetic, scheme of works. In this respect the clear and convincing justification for the harm required by the Framework has not been demonstrated.

17. The other internal and external works concerning partitions in the rear lean-to and its roof would, for the reasons outlined in 'Other Matters', improve the floorplan layout of the listed building and the appearance of the latter. These would be heritage benefits of the overall proposal but are unrelated to the damp-proofing works undertaken, as such they could have been undertaken in isolation of them. Accordingly, I afford these benefits limited weight.
18. Taking the above together, the public benefits I have outlined would not justify allowing a proposal that would fail to preserve the special interest of the listed building. In accordance with paragraphs 199 and 202 of the Framework, considered together, I am therefore not persuaded there would be wider public benefits of sufficient magnitude to outweigh the great weight to the asset's conservation and considerable importance and weight to the less than substantial harm identified to the special interest of the asset.
19. The Council is also concerned the grant of consent for the damp-proofing works would set a precedent for other applicants to carry out harmful works and then seek to regularise them through the application and appeal processes. It states this could lead to decline of heritage assets in the district. This is not simply a generalised fear, but a realistic and specific concern regarding the historic fabric of buildings everywhere in the district. Notwithstanding the statutory requirements of primary legislation, granting consent for the damp-proofing works would make it more difficult for the Council to resist future applications for consent for harmful works already undertaken that cannot be undone.
20. In light of the above, I conclude the damp-proofing works would not preserve the special architectural and historic interest of the listed building. Hence, the proposal is contrary to the provisions of the Act, and the heritage aims of P1LP Core Policy 39, P2LP Development Policy 38, and paragraphs 197, 199 and 200 of the Framework.

Other Matters

21. Other works shown on the application drawings to remove the incursion of a cupboard projecting from an opening off the dining room into the floor space of the utility, retaining a smaller cupboard; and to insert a partition and door between the utility and conservatory, have also been undertaken. The former would reduce interruption of the floorplan arrangement of the building and the latter would reintroduce a former division between the two spaces, which existed until the conservatory was latterly added.
22. The proposal also relates to alterations to the cladding of the separate roofs of the rear lean-to additions, which were covered in slate, and clay and concrete tiles. Moreover, the wholesale replacement of these has been undertaken with one consistent red plain clay tile on one plane, as shown on the application drawing. The form and appearance of the tiles is a significant improvement upon the existing conglomeration of materials that occupied the three roofs.
23. Furthermore, the appellant's Heritage Statement indicates existing rainwater goods will be replaced by new goods of cast iron, but it is not certain these works have been carried out, as no reference is made of this in the appeal documents and the rainwater goods in situ appear identical to those shown in the evidence before me. While such details are acceptable in principle, the final design and specification would need to be secured by way of condition.

24. The other works to the property, listed above, therefore preserve the special interest of the cottage, as required by the Act, do not harm its significance, and accord with the same policies. Section 22(1) of the Act enables a split decision in respect of listed building consent appeals and, these works are clearly both physically and functionally separate, so I can issue a split decision.
25. The site is also within the CA, which covers the historic core of the settlement around Church Street, Mill Street, New Road and North Street. The cottage is of similar age and status to other buildings in the CA, so it makes an important contribution to the significance of the CA. However, given the location, nature and extent of the works, the character and appearance of the CA as a whole would be preserved as required by the Act.

Conditions

26. In addition to the standard time limit for the appeal, in the interests of preserving the special interest of the listed building, a condition for further details of the design and specification of the proposed rainwater goods is necessary. The condition requested by the Council to specify approved plans is unnecessary, as the decision refers to the approved documents.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed in so far as it relates to new partition works, and repair and restoration works to the rear lean-to roof, including replacement of rainwater goods. The appeal is dismissed in so far as it relates to damp-proofing.

Paul Thompson

INSPECTOR