



Appeal Decision

Site visit made on 8 August 2023

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/E2205/Y/22/3312588

22 Scotton Street, Wye, Ashford, Kent TN25 5BZ

- 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 Ms Leonie Seymour against the decision of Ashford Borough Council.
 - The application Ref 22/00859/AS, dated 27 May 2022, was refused by notice dated 11 November 2022.
 - The works are damp proof works to include: kitchen – chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens; lounge – chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens, cut out and replace floorboards.
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Decision

1. The appeal is allowed and listed building consent is granted for damp proof works to include: kitchen – chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens; lounge – chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens, cut out and replace floorboards at 22 Scotton Street, Wye Ashford, Kent TN25 5BZ in accordance with the terms of the application Ref 22/00859/AS, dated 27 May 2022.

Preliminary Matter

2. As originally submitted, the works were described as 'damp proof course works'. The more detailed description used in the banner heading above was subsequently agreed by the appellant by email dated 10 June 2022. I have removed the word 'retrospective' as that is not a description of works. However, for the avoidance of doubt, the works have already been carried out.

Main Issue

3. The main issue is whether the works preserve the listed building or any features of special architectural or historic interest that it possesses.

Reasons

4. 22 Scotton Street is an end-of-terrace cottage forming part of an early C18 terrace row of similar two storey cottages (12-22 even) which is grade II listed¹. The terrace is of white painted brick on the ground floor with tile hung timber frame to the first floor under a hipped, tiled roof. 22 Scotton Road is of a simple two room layout on the ground floor, with two bedrooms and a

¹ List entry number: 412659

bathroom above. The front living room has a suspended wooden floor and plastered walls; the rear (kitchen) room has a solid, tiled floor with plastered walls. The significance and special interest of the listed building lies in its simple plan form and vernacular interest.

5. The building has recently been renovated. A chemical damp proof course has been injected into the bottom of the ground floor brickwork at the front, side and rear. Internally, wall plaster and timber panelling in the kitchen has been removed along the side wall and replaced with a damp proof membrane covered by plasterboard on battens and skimmed. Some floorboards in the front room have been replaced. A woodworm treatment to exposed timbers has also been applied. Other works to replace casement windows at the rear and repair sash windows at the front are the subject of separate listed building applications.
6. The chemical damp proof course involved drilling holes into the lower mortar bed of the ground floor walls and injecting a waterproof chemical to form an impervious barrier. Survey photographs and the survey report indicate that a similar procedure had been attempted in the past. The appellant confirms that the contractor bored out the same holes to inject their proprietary chemical before refilling and painting. There is no record of when the previous damp proof course was injected; it is possible that it predates the listing of the terrace in 1985.
7. The Council refers to guidance that advises that such treatments seldom work in old buildings and may make the problem worse. The first part of that advice would seem to be borne out by the previous damp proof treatment not working effectively. However, in this case there is little evidence to suggest that the chemically injected damp proofing has itself caused damage to the listed building. By reusing the earlier injection holes the recent treatment has not led to the removal of any additional historic fabric. While the Council may be right in questioning the chemical injection of a damp proof course as an effective treatment against rising damp, in this case little harm has been caused to the special interest and significance of the listed building.
8. It is unclear from the evidence provided whether the internal plaster was of historic interest, or whether it was modern render. As the Council points out, in the past it was common practice when injecting a damp proof course to strip and replace internal plasterwork with a modern, waterproof plaster. Given the damp problem that prompted the recent works to be carried out, there would seem to be a strong possibility that the plaster was not historic. The same may also apply to the timber panelling in the kitchen, which might have been installed to cover up the damp problem when the kitchen was refurbished as stated in the building survey. However, there is little specific evidence to corroborate that the panelling was fitted in the recent past. In the absence of such evidence, I must assume that its removal has eroded the special interest and significance of the listed building by the removal of historic fabric. The main structural elements of the building, including the ground floor brickwork and first floor timber framing have not been affected and remain in situ.
9. The installed cavity drainage membrane and air gap between it and the plasterboard is a different approach to using an impermeable cement render or waterproof plaster. It provides the opportunity for movement of air and therefore natural drying. The case studies provided by the appellant are

general approaches to solving damp problems in historic buildings and not specific to the situation at 22 Scotton Street. That being said, I also have no reason to believe that other than for the removal of plaster and panelling, its installation has damaged the building or is likely to cause deterioration in the long term.

10. I am satisfied from the evidence provided by the appellant as part of the appeal that the replacement of sections of floorboards was necessitated by them being rotten, either through damp or woodworm, or both. Only those sections which were beyond repair have been replaced, with the remainder retained. The same applies to the floor joists. I consider these to have been necessary repairs to the building.
11. Chemical woodworm treatment was applied to exposed timber. The Officer's Assessment Sheet questions whether such works are effective. However, the Damp Report² submitted by the appellant does provide evidence of some woodworm infestation, and it is therefore reasonable that action was taken to prevent further deterioration.
12. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest it possesses. In this case, the works have resulted in the loss of internal plasterwork and timber panelling, and the carrying out of an invasive procedure by way of the chemical damp proof course.
13. However, for the reasons discussed above, I consider that those works have caused only limited harm to the historic fabric of the listed building. Furthermore, I consider that they are unlikely to lead to further deterioration of the historic fabric in the long term. Consequently, I assess the works which have been carried out as causing less than substantial harm to the significance of the listed building. I nevertheless attach great weight to the desirability of avoiding any such harmful effect.
14. Paragraph 202 of the National Planning Policy Framework says that where less than substantial harm has been caused, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use.
15. In this case, it is apparent from the building survey submitted by the appellant that the property was suffering from a damp problem that required remediation in order for the property to remain habitable. The optimum viable use of the property is as a dwellinghouse, and it is therefore in the public interest to allow works that enable that use to continue and ensure that the cottage can be used as a dwelling in the long term. That is the best way to ensure the continued maintenance and preservation of the building.
16. Unauthorised works to listed buildings are not to be condoned, particularly where they result in the removal of historic fabric or adversely affect the architectural or historic interest of the listed building. The concerns expressed by the Council are therefore entirely understandable. However, in this case I consider that the public benefit of securing the building's optimum viable use as a residential dwelling outweighs the less than substantial harm that has

² Kent Damp Proofing, Damp Report and Certificate of Guarantee dated 28/03/2022

been caused to the significance of the building. That will not necessarily be the case in other instances, and my decision should not be taken as suggesting that such works will be acceptable in other situations.

17. For the same reason, I consider that the net benefit to the listed building means that the works accord with Policy ENV13 of the Ashford Local Plan 2030, which seeks to preserve or enhance heritage assets in the Borough accepting that, in situations where less than substantial harm is caused, there is a need to balance that harm against public benefits.

Conditions

18. As the works have already been carried out there is no need for a time limit condition.
19. The Council has suggested 2 conditions should listed building consent be granted. The first relates to recording of the works that have been carried out. I consider that to be unnecessary as sufficient information is already contained in the documents and photographs submitted with the appeal. The second relates to a full specification for any future damp proof works. I consider that also to be unnecessary because if such works require listed building consent, they would require submission of a separate listed building application, which would be determined on its own merits by the Council.

Conclusion

20. I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR