
Appeal Decisions

Site visit made on 10 October 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal A Ref: APP/D1835/Y/22/3310756

28A The Tything, Worcester WR1 1JL

- 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 Mr John Lightowler of Westdean Homes Ltd against the decision of Worcester City Council.
 - The application Ref 21/00280/LB, dated 18 March 2021, was refused by notice dated 9 September 2022.
 - The works proposed are the replacement of timber rear windows with matching UPVC double glazed units, and replacement of timber rear door with matching composite unit.
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Appeal B Ref: APP/D1835/Y/22/3310752

28B The Tything, Worcester WR1 1JL

- 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 Mr John Lightowler of Westdean Homes Ltd against the decision of Worcester City Council.
 - The application Ref 21/00251/LB, dated 10 March 2021, was refused by notice dated 21 September 2022.
 - The works proposed are the replacement of rear windows and window to internal lightwell with UPVC double glazed units.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. There are two appeals concerning the rear elevation of the listed building known as 28 and 28A The Tything (the listed building) which is located within the Foregate Street and the Tything Conservation Area (CA). They differ in that appeal A relates to a first-floor house in multiple occupation (HMO) (referred to as both 28A and Flat 1 in the appeal papers) and proposes the replacement of 7 timber windows with UPVC glazed units and the replacement of a timber door with a composite door. Appeal B relates to a different HMO (referred to as both 28B and Flat 2) at second floor level and proposes the replacement of 3 timber windows and an internal lightwell timber window with UPVC glazed units.
4. The appellant is the same in both cases and the evidence indicates that he proposes to undertake the works concurrently. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

5. The descriptions in the above banner headings have been taken from the respective appeal forms and Council decision notices, which summarise the nature of the works more succinctly than the original application form descriptions.
6. I am mindful of the duties in sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The first requires me to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. The latter requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. The National Planning Policy Framework (the Framework) was updated on 5 September 2023 and after the submission of the appeal. The historic environment policies have remained unchanged within the new version of the Framework, which is a material consideration.

Main Issues – in both cases

8. The main issues are the effect of the proposed works on the special interest of the Grade II listed building (List Entry Number: 1390217); and whether the character or appearance of the CA would be preserved or enhanced.

Reasons

Significance and special interest

9. 28 and 28A The Tything was listed in 1971 and comprises a 3 storey, red brick, late 18th century house, with shop on the ground floor and residential accommodation above. It is one of a series of listed buildings dating mostly from the 18th century that line the curving route of The Tything.
10. The significance and special interest of the listed building derives primarily from its aesthetic qualities. The use of a relatively limited palette of consistent building materials is an important component of its architectural character. Accordingly, the use of red brick, clay tiles and traditional timber windows reinforce the late 18th century architectural origin of the building and cohere with materials commonly seen elsewhere in the winding terrace.
11. The most notable architectural detailing is found on the upper parts of the principal elevation. Aside from two 19th century canted oriel windows, the fenestration comprises primarily of the broadly balanced placement of timber-framed sash windows. Brick detailing is evident in the dentilled eaves and flat gauged brick arches to the sash window openings. The sash window openings are further enhanced by stone sills and incised capped keystones.
12. In contrast, the rear elevation has been extended and altered over time. Nevertheless, some architectural consistency is discernible owing to the use of building materials. The prevalence of red brick and where they exist, traditional timber framed sliding sashes with flat brick arches and stone sills, adds to the architectural integrity of the listed building. Two such sash windows are evident at 28A that are the subject of appeal A, and one sash window and the lightwell window exist at 28B, that are the subject of appeal B.
13. I observed an assortment of other modern softwood casement windows of varying dimensions in the rear elevation. These have diluted the traditional and

balanced character of the listed building and undermine its significance to an extent. However, greater harm to the rear elevation is caused by the presence of a UPVC window and French doors at second floor level. The thick frames and flat profiles of these windows are unsympathetic to the overall composition of the listed building, and contrast harmfully with the surviving examples of traditional timber framed windows nearby.

14. Consequently, the principal elevation makes the most public and valuable contribution to the architectural quality of the listed building. Nevertheless, although compromised to an extent, the rear elevation (including the appeal sites) retains some interest and thereby reinforces the listed building's overall significance and special interest.
15. The CA covers a linear section of a main thoroughfare into the city. It comprises a series of mostly tight-knit 18th and 19th century buildings presenting immediately to the road, many with shops at ground floor. The often narrow plots are suggestive of medieval burgage plots, which is reinforced by the elongated rear extensions to many buildings and the presence of rear workshops and secondary lanes. The prevalence of red brick and 18th century architectural styling gives an underlying coherence to the area, but the variety of building heights and use of other traditional materials adds interest and enriches the street scene. Accordingly, the significance of the CA is derived in part from the appearance and arrangement of historic buildings that signal how the area has evolved over time.
16. The listed building forms part of a continuous sequence of historic buildings within the central part of the CA, and its front elevation contributes positively to the continuous frontage. The rear section of the listed building is less obvious, but as is illustrated in the submitted photograph, some elements can be partially glimpsed from Britannia Square. In any event, the rear elevation will feature in views from nearby buildings.
17. Overall, the listed building makes a notable positive contribution towards the distinctive character and appearance of the CA as a whole, and the parts of the listed building relevant to the appeal proposals forms a small part of that characteristic backcloth. The surviving traditional detailing at the appeal sites make a small contribution to the CA's significance as a designated heritage asset.

The effect on the listed building and CA

18. Few details are given of the existing windows and door that are the subject of appeals A and B. Hence, the evidence largely comprises submitted photographs and my own observations. Two of the seven windows proposed to be replaced for appeal A, and one of the three windows for appeal B are traditional timber-framed two over two pane sliding sash windows, with a stone sill and headed with flat brick arches. Likewise, the lightwell window (appeal B) is a traditional two over two pane sliding sash window. The traditional materials, historic profile, method of opening, slender frame and glazing bars resonate sympathetically with fenestration found on the principal elevation. Therefore, they contribute to the architectural integrity and significance of the listed building overall.
19. In both appeals limited details of the replacement windows have been provided. In the case of appeal B, as five window types are provided, it is not

clearly explained which is proposed in bedroom 1 or the lightwell. However, from the diagrams and information that are supplied, all the windows would have UPVC frames, of a standard manufacture with top hung or casement openings. Therefore, the windows would be manufactured from a synthetic material, likely to comprise a thick mid-rail and frame. These would appear as obviously standardised, unfaithful, and uncharacteristic compared with the existing traditional timber sash windows and would fail to replicate the visual qualities, method of opening or construction associated with traditional timber joinery.

20. They would be likely to superficially replicate the detail and design of traditional carpentry whilst also increasing the use of a non-authentic material that is alien to a building originating from the 18th century. Hence, by removing the existing traditional sash windows, these replacement windows would detract from the traditional authenticity and architectural integrity of the Grade II listed building. In doing so, they would to a small extent erode the character and appearance of the CA.
21. The remaining five windows for appeal A and two windows for appeal B are timber framed casement windows with modern characteristics. From the brick arches, replacement brickwork and some stone sills still in situ, four of those casements (two for appeal A and two for appeal B) adjacent to the traditional sashes have been fitted into reduced apertures relative to the probable more historic symmetrical situation. The other three casements (appeal A) serving the utility and kitchen have horizontal or square proportions that have little in common with the traditional sash windows.
22. Accordingly, I agree with the appellant with respect to these windows that they contribute little to the significance of the listed building. Instead, owing to their insensitive proportions and opening methods, they undermine its architectural character and appearance. Hence, the loss of the existing softwood casements would not cause harm to the significance of the listed building or CA.
23. Nevertheless, the proposed replacement windows would result in an even greater harm. This would be largely owing to the overtly modern synthetic materials, the effect of which would be exacerbated by the thickness of the frames. In these respects, the proposed replacements would be more harmful than the present casement timber windows. Consequently, the windows would appear stark, crude and unsympathetic additions.
24. Furthermore, the concentration of such windows would further weaken the architectural integrity of the listed building and would neither preserve nor enhance the character and appearance of the CA.
25. Very little detail has been given of the proposed replacement door (appeal A), but it is described as a 'composite' door. My observations were that the existing half glazed timber door was unremarkable and did not contribute meaningfully to the significance of the listed building. However, it was at least constructed from traditional materials. Based on the information before me I am not sufficiently assured that the modern materials and standard construction of the proposed replacement door would preserve the heritage interest of the listed building.
26. It is suggested that the proposals would not harm the listed building because they would not be more widely visible. However, listed buildings are

safeguarded for their inherent architectural and historic interest irrespective of whether there are views of the building from the public realm.

27. Furthermore, the list description does not purport to define all the elements that contribute towards the significance of a listed building. Hence, the absence of specific references to the rear elevation and windows in the list entry does not mean that they possess no significance. Neither does it signify that those elements are not part of the listed building. Based on the information before me, they fall within the definition of a listed building as described in section 1(5) of the Act and I have dealt with the appeals on this basis.
28. It is further brought to my attention that some UPVC windows are already in situ at second floor level. It is asserted that as the proposed replacement windows in both cases would match those windows this would be beneficial. However, even if evidence had been provided to show that those examples were authorised, I cannot agree. As already outlined, I found those windows to be harmful and therefore, they would not represent a sound justification to permit further harmful works, which would have an incrementally degrading effect.
29. Reference is also made to a recently consented lantern roof light at the listed building¹ to which I have had regard. However, that proposal concerned works to the flat roof that are quite different in nature and extent from either of the appeal proposals before me. Accordingly, whilst it shows that the Council have found some alterations to be acceptable, it carries little positive weight in relation to either appeal A or B, which I have determined on their respective merits.
30. I have found that in both cases the replacement fenestration would fail to preserve the special interest of the Grade II listed building. In addition, they would fail to preserve or enhance the character and appearance of the CA. The proposed works thereby run counter to the expectations of sections 16(2) and 72(1) of the Act.
31. It follows that harm would be caused to the significance of each as designated heritage assets in both proposals. However, given the relatively minor scale and nature of each proposal, the degree of harm caused to the significance of the listed building and CA in each case would be less than substantial. In these circumstances, paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.

Heritage balance

32. The appellant contends that the replacement windows and door would improve the energy efficiency and ventilation of the respective HMO's. Furthermore, as they require less maintenance, they would be beneficial to the appearance of the listed building.
33. A letter of support received in relation to appeal B outlines how the existing windows perform poorly for the residents in terms of heat retention, cooling in summer and blocking out external noise. In each case, some small public benefit would be derived from the general investment into the fabric of the listed building and, although not quantified, improved energy efficiency and living conditions of the occupants.

¹ References 22/0013/FUL & 22/00222/LB

34. Nevertheless, there is little justification provided for the specific use of UPVC windows and composite door, nor why this would be any more energy efficient than upgraded or replacement timber versions. Therefore, it is not demonstrated that it is necessary to deviate from the use of sympathetic materials and detailing in order to secure benefits associated with thermal efficiency. Neither is it shown that the associated maintenance with such fenestration would be unreasonably onerous.
35. Cumulatively, I find the sum of wider public benefits associated with each appeal to be modest, and I attribute them moderate favourable weight in each case.
36. Paragraph 199 of the Framework stipulates that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Hence, although I broadly agree with the appellant that the degree of harm to the listed building and CA arising from each proposal is not substantial², less than substantial harm to each designated heritage asset carries great negative weight. Furthermore, incremental less than substantial harmful changes could markedly erode the significance of heritage assets, which are an irreplaceable resource. For these reasons, I find in each instance that the public benefits would not be sufficient to justify the respective proposals. Conflict therefore arises with the historic environment protection policies in the Framework.
37. Policy SWDP 24 of the South Worcestershire Development Plan, February 2016 (SWDP) confirms that proposals affecting heritage assets will be considered in accordance with the Framework, relevant legislation and published national and local guidance. Having regard to the development plan, I find that the works conflict with policies 6 and 21 of the SWDP, as, amongst other things, these policies seek to conserve and enhance heritage assets.

Conclusions

38. In conclusion, I find that the proposed works in both cases conflict with the statutory provisions set out in the Act; the historic environment policies within the Framework; as well as heritage and design policies in the SWDP. There are not wider public benefits sufficient to outweigh the harms identified. Therefore, for the above reasons and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

Helen O'Connor

Inspector

² Paragraph 13, Appellant's Statement of Case for appeals A and B