



Appeal Decisions

Site visit made on 2 October 2023

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Appeal A Ref: APP/P1425/W/23/3314433

4 Church Street, Seaford, East Sussex BN25 1HD

- 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 Mr Mike Bryon against the decision of Lewes District Council.
 - The application Ref LW/22/0559, dated 16 August 2022, was refused by notice dated 9 November 2022.
 - The development proposed is change of use from residential to holiday let with internal alterations including addition of a sauna in the basement, addition of shower space to ground floor toilet and addition of ensuite bathroom on first floor.
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Appeal B Ref: APP/P1425/Y/23/3314434

4 Church Street, Seaford, East Sussex BN25 1HD

- 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 Mike Bryon against the decision of Lewes District Council.
 - The application Ref LW/22/0560, dated 16 August 2022, was refused by notice dated 14 November 2022.
 - The works proposed are change of use from residential to holiday let with internal alterations including addition of a sauna in the basement, addition of shower space to ground floor toilet and addition of ensuite bathroom on first floor.
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Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Application for costs

3. An application for costs was made by Mr Mike Bryon against Lewes District Council for both Appeal A and Appeal B. This application is the subject of a separate Decision.

Preliminary Matters

4. As set out above there are two appeals on this site. Appeal A concerns the refusal of planning permission and Appeal B concerns the refusal of listed building consent, although in both cases, the appeal site and the proposal are the same. I have considered each proposal on its individual merits and with regard to the relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
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5. For both appeals, the description of the proposal has changed from that contained on the application forms. However, the description on the appeal forms and which was agreed by the Council, is not fully accurate; there is no ground floor bathroom, just a ground floor toilet with sink. I have amended the descriptions to reflect this, in the banner heading above.

Main Issues

6. The main issues are:

Appeal A

The effect of the proposal on:

- the living conditions of nearby occupiers; and,
- the character and appearance of the area, including the Seaford Town Centre Conservation Area and the setting of a Grade II listed building.

Appeal B

- Whether the proposed works would preserve a Grade II listed building.

Reasons

7. Alma House / Phoenix Corner House, 4 Church Street¹ is a Grade II listed building in the Parish of Seaford. It is said to date from the late 18th / early 19th century and is a two-storey stuccoed building with a hipped, tiled roof, occupying a visually prominent position at the junction of Church Street and South Street.
8. The listed building comprises two properties; the appeal property, No 4 to the north, and No 4A to the south. Both have stepped entrances on Church Street and panelled, sliding sash windows at ground and first floor levels; No 4 also has a ground floor bay with sash windows, which projects onto the footway on Church Street.
9. In my view, the significance of this designated heritage asset, insofar as it relates to these appeals, stems from its location, including its setting, design and materials.
10. The appeal building is located within the Seaford Town Centre Conservation Area (STCCA). The appellant makes reference to a Conservation Area Appraisal, but this document is not in the evidence before me.
11. During my site visit I considered the STCCA, with reference to the annotated map provided by the Council. In my view, the significance of this designated heritage asset, insofar as it relates to these appeals, stems from its location and historical pattern of development, including the function as a town centre, and with the buildings, including listed buildings such as the appeal building, the streets and the spaces within it.
12. The lawful use of the building is said to be as two dwellinghouses, following planning and listed building consent approvals in 2003. These are described as *Change of use and conversion of vacant shop to form two semi-detached cottages*².

¹ List Entry Number 1044025. The List Entry also includes text to identify that the building and the Old Town Hall on South Street form a group.

² LPA Refs. LW/03/1635 and LW/03/1636 (taken from the appellant's Statement)

Appeal A

13. The first issue in this case is whether the proposal would result in a material change of use, given the lawful C3 use of the building. Without such a change of use there would be no means of controlling the matters to which the Council objects.
14. I have had regard to the referenced judgement of the Court of Appeal³ in considering this matter. The three double beds at the appeal property indicate that it would be occupied by up to six adults, and in many cases, three couples. Whilst it is possible that such an arrangement could constitute a family that would occupy a dwellinghouse, it would be quite unconventional and unlikely to be commonplace.
15. With reference to the likely length and frequency of lets; the likely age of the occupiers in many cases; and the recreational nature of the occupation, from the limited evidence before me, the use of the property as a holiday-let would be a material change of use from a dwellinghouse. Given this, the subsequent issue to consider is whether this change of use would be acceptable in planning terms.
16. I note the appellant's comments regarding the use of the appeal property as a holiday let for several years previously without complaints. However no evidence has been provided to substantiate this.
17. Furthermore, the comments regarding the (stated) ongoing use of the property as a holiday-let, including with regard to occupancy rates, complaints, arrivals and departures, and means of transport to and from the property, are also largely unsubstantiated.
18. The requirements of different online booking platforms are not controllable through the planning process and may be subject to change. They cannot, therefore, be relied upon as a means of avoiding harm to the living conditions of nearby occupiers, as the appellant appears to suggest. Furthermore, the appellant is not obliged to use these platforms. Nevertheless, from the evidence I do not consider the likely intensification of activity or changes to the pattern of activity at the property as a result of the change of use, would significantly affect local residents.
19. There is considerable in-principle support for visitor accommodation in the development plan. The town centre is an accessible location by public transport and within easy walking distance of the beach. Were future occupiers to choose to drive, the on-street parking restrictions would not prevent the unloading and loading of guests' vehicles at arrival/departure, and in any event would be enforceable by the appropriate authority. I do not consider that the change of use would cause serious inconvenience to pedestrians, road users or local residents, in this respect.
20. With regard to noise and disturbance, the location of the property in the town centre, with a number of public houses nearby, means a higher level of noise disturbance would be expected than in, for example, a suburban residential area. I do not consider that the proposed change of use would be likely to cause a significant increase in noise and disturbance. In any event, if this were

³ *Sheila Moore v Secretary of State for Communities and Local Government, Suffolk Coastal District Council* [2012] EWCA Civ 1202

to cause problems for local residents, as a result of a 'party-type event,' the Council has separate powers to address this.

21. There were refuse and recycling bins for the appeal property, stored somewhat haphazardly on the footpath on Church Street, with further bins stored on the footpath to the south of the appeal property, at the time of my site visit.
22. This is clutter that detracts from the visual character and appearance of the STCCA and the setting of the Grade II listed appeal building. However, given the nature of the appeal property, the storage of such bins on the footpath would seem to be an almost inevitable consequence of the lawful use as a dwellinghouse. On the basis that these matters were considered in 2003, when planning permission and listed building consent were granted for a change of use to two dwellinghouses, I cannot consider this harm further.
23. The Council is said to provide the bins for the property and collect their contents as they do for other properties in the area. No examples of problems arising from the current waste storage and collection arrangements have been raised by the Council.
24. However, the use of the property as a holiday-let would be likely to lead to an intensification of use compared to the current lawful use as a dwellinghouse, and there is likely to be an increase in waste generated from the property given the potential for multiple bookings over a short period of time.
25. I note that the appellant appears to manage the bins at present, to ensure they 'are never overflowing and rubbish is not on the ground around them.' Whether this approach has been agreed with the Council, how it is achieved and where any surplus waste is taken is not explained. However, this indicates to me that without such interventions there could be a bin capacity problem at times.
26. Setting aside this informal management arrangement, which is not controllable through the planning system, once bin capacity for the property is reached, waste/recycling would need to be stored on the street, or potentially in an additional bin provided by the Council.
27. An additional bin on the footpath outside the property, or waste and recycling stored on the footpath by the existing bins, would further detract from the visual character and appearance of the STCCA and the setting of the Grade II listed appeal building, beyond what occurs at present. This would cause less than substantial harm to the significance of both.
28. The appellant has had the opportunity to address the issue of waste and recycling in their statement. However, they have failed to provide sufficient information to satisfy me that suitable arrangements are possible to manage this, without harming two designated heritage assets. Furthermore, given the limited information regarding the waste/recycling generated as a dwellinghouse or as a holiday-let, and also with regard to collections, I do not consider this matter could be satisfactorily addressed by way of a suitably worded condition, attached to any grant of planning permission, were the appeal to be allowed.
29. I note the contribution to the local economy that the occupiers of the holiday-let would bring. Whilst this is a public benefit, I do not consider that this would be significantly greater than if the property were occupied as a dwellinghouse, and it would not outweigh the harm that I have identified. Furthermore, no

substantive evidence has been provided that the use of the property as a dwellinghouse is not its optimum viable use.

30. For these reasons, whilst the proposed change of use would be acceptable in terms of the effects on nearby occupiers, I am not satisfied that it would not detract from the character and appearance of the area, including the STCCA and the setting of the Grade II listed appeal building. Consequently, insofar as relevant, the proposal would conflict with Policy CP11 (built and historic environment and high quality design) of the Lewes District Local Plan Core Strategy 2016 (the CS), Policies DM25 (design) and DM33 (heritage assets) of the Lewes District Local Plan Site Allocations and Development Management Policies 2020 (the SADMP), Policy SEA11 (visitor accommodation in Seaford) of the adopted Seaford Neighbourhood Plan 2020 and with the National Planning Policy Framework 2023 (the Framework), in this regard.

Appeal B

31. As set out above, following the grant of planning permission and listed building consent in 2003, various works were undertaken to convert the listed building from a shop use to two dwellinghouses. However, no substantive details of what works were approved at this time and subsequently undertaken are in the evidence before me, and somewhat strangely in the circumstances, the Council does not refer to these approvals.
32. The 'existing' appeal property, No 4, would certainly be capable of being used as a dwellinghouse in terms of its design, layout and facilities. These include three first floor bedrooms; a bathroom; a kitchen and an open plan living space at ground floor level, with a separate toilet and storage cupboard; and further habitable space in the basement.
33. There is some evidence that No 4 has been used as a holiday-let for up to six people in the past, and I observed double beds in each of the three bedrooms when I visited the site.
34. However, I do not find the appellant's comments that 'there is nothing remaining of the interior that predates 2004' to be compelling. The level of information provided by the appellant to support the proposed works is very limited and the assertion that the proposed internal changes are minor and 'will not affect the historic fabric'⁴ is unsubstantiated. It is not clear from the evidence what the internal 'historic fabric' of the building is and so whether it would be affected by the proposal.
35. Most of the works for which listed building consent is currently sought have already been undertaken, making an assessment of their effect on the significance of this designated heritage asset difficult. The appellant has had the opportunity to provide further information regarding the historic fabric of the building, or to demonstrate through an assessment by a suitably qualified expert that none of the historic fabric within the building remains, in their appeal evidence. However, this has not been done to my satisfaction.
36. From the evidence it is not possible to confirm the appellant's assertion that the sauna is not fixed to the wall, floor or ceiling. Other associated works, such as the coving around the sauna, which is fixed to the ceiling and closely follows its shape, are not shown or referenced.

⁴ In the Planning and Heritage Statement (PHS)

37. The submitted 1:100 scale existing and proposed drawings show very little detail, and no larger scale, internal elevation, plan or section drawings, with appropriate annotations, have been provided.
38. Furthermore, I am not satisfied that the submitted existing and proposed drawings are fully accurate. The kitchen door is not shown on the existing or proposed plans, nor are fixtures such as radiators and integral fans that I observed when I visited the property. The design of the east-facing skylight is also inaccurately shown on the existing and proposed roof plans. Most of the proposed materials and the fixtures are not identified on the drawings, and other works, such as an emergency light switch and cabling by a cupboard in the basement are also omitted. This is not an exhaustive list.
39. I note the correspondence between the appellant and the Council in Autumn 2022, enquiring whether further information was required. Whilst I note this concerned the separate planning application, rather than the listed building consent application, the lack of a response from the Council is not helpful.
40. Nevertheless, with reference to Paragraph 194⁵ of the Framework, Planning Practice Guidance (PPG) on the Historic Environment⁶ and to relevant parts of the development plan⁷, it should be apparent what level of information would be required.
41. It is not clear from the evidence that a suitable assessment of the significance of the 'existing' Grade II listed building has been undertaken by an appropriately qualified expert. Consequently, it has not been shown to my satisfaction that the proposed works, which have been largely completed, would preserve the listed building or any features of special architectural or historic interest it possesses. From the limited evidence I am not satisfied that the works would not cause less than substantial harm to this designated heritage asset.
42. I note the contribution to the local economy that the occupiers of the holiday-let would bring. Whilst this is a public benefit, I do not consider that this would be much greater than if the property were occupied as a dwellinghouse, and would not outweigh the harm that I have identified. Furthermore, no substantive evidence has been provided that the use of the property as a dwellinghouse is not its optimum viable use.
43. For these reasons, the proposed works would fail to preserve a Grade II listed building. They would, insofar as relevant, conflict with Policy CP11 of the CS, with Policy DM33 of the SADMP, and with the Framework, in this regard.

Conclusion

44. For the reasons given above, I conclude that Appeal A and Appeal B are dismissed.

Andrew Parkin

INSPECTOR

⁵ Paragraph 189 of the 2019 version of the Framework, referenced in PPG

⁶ Including Paragraph: 009 Reference ID: 18a-009-20190723 Revision date: 23 07 2019

⁷ Including Policy DM33 of the SADMP and the associated supporting text