



Appeal Decision

Site visit made on 3 January 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 09 February 2024

Appeal Ref: APP/R1038/Y/23/3318383

Fallgate Mill, Hockley Lane, Ashover, Derbyshire S45 0ER

- 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 Michael Philbin against the decision of North East Derbyshire District Council.
 - The application Ref 22/01143/LB, dated 15 November 2022, was refused by notice dated 6 March 2023.
 - The works proposed are to reinstate a ground floor window that was filled in during the 1980's restoration of a listed building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal relates to a listed building consent I have had special regard to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. After the appeal was made, the revised National Planning Policy Framework (the Framework) was published on 20 December 2023. This is a material consideration in the determination of this appeal. However, the revisions are not directly relevant to the main issue. Therefore, I am satisfied that the interests of the main parties would not be prejudiced by the changes.

Main Issue

4. The main issue is whether the proposal would preserve a Grade II listed building, "Fallgate Mill" (Ref: 1241794) (the LB), and any of the features of special architectural or historic interest that it possesses.

Reasons

5. The LB was listed in 1995 and is a water-powered corn mill dating from around 1781, with earlier work incorporated into the structure. It comprises a 3-storey range with subservient ranges to the west and east, primarily finished in coursed rubble and ashlar gritstone and carboniferous limestone rubble. The building fell out of use in the 1950s and into disrepair. Restoration commenced in the 1980s and planning permission for its conversion to residential use was granted in 2013.
6. Externally, windows are generally small and irregularly arranged, reflecting its historic use and there is evidence of a number of blocked openings. The east gable end is distinguished by the external wheelpit with restored overshot

wheel. The interior has been much altered but it retains exposed historic stonework, timbers and mill machinery. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with its historic fabric, vernacular form and functional legibility as an early water-powered mill.

7. The east gable end is largely blank except for two high-level openings one above the other in the gable apex and a tall narrow opening close to the south-east edge of the elevation. However, there is evidence that a historic opening close to the overshot wheel was infilled in the 1980s. Internally, the former opening is discretely sited to the side and rear of the restored mill machinery in a corner of the kitchen/ dining room. Consequently, the reinstatement of the former opening and the insertion of a single pane of glazing would not result in the loss of historic fabric and it would enhance the special interest of the LB through the restoration of a historic opening.
8. However, as illustrated the window would be larger and not in the same position as the former opening, which is evidenced by the historic photographs, the pattern of the surrounding stonework and, internally, through the position of the shutter fixings. The proposal's larger size and siting further from the mill wheel would not be authentic and it would detract from the historic legibility of the opening. I note that not all of the illustrated existing openings in the adjoining side elevation of the adjoining range have been created. Nevertheless, by virtue of its scale, siting and appearance, the proposal would cumulatively contribute to the domestication of the historic mill. The enlargement of the opening would also result in a loss of historic fabric, albeit this would be a minor loss of rubble stone wall.
9. There are also discrepancies and inconsistencies between the existing and proposed plans and elevations, the hand-drawn plans and the submitted information. These include the precise dimensions of the opening and the window, and the detailed specification of the window, frame, fixing and materials. Consequently, the submitted information does not provide clarity or certainty as to the proposal and the plans are not adequately scaled or detailed to be implemented.
10. The appellant considers this is a simple matter that could be dealt with by the imposition of planning conditions, and it should not prevent the grant of permission. In the event the appeal was allowed, the Council suggests a pre-commencement condition requiring the submission of detailed plans for approval. However, taking into account the nature of the proposal and the Planning Practice Guidance, there appears to be no clear justification for the use of a pre-commencement condition requiring the submission of a new set of plans for approval. Moreover, in the absence of acceptable plans, the proposal fails to demonstrate that the special interest of the LB would be preserved. Therefore, notwithstanding that the reinstatement of the former opening may be acceptable in principle, I am not satisfied that the absence of adequate plans is a matter that could be properly addressed by condition in this case.
11. Given the above, based on the evidence before me, I find that the proposal would fail to preserve the special interest of the listed building. Consequently, I give this harm considerable importance and weight in the planning balance of these appeals.

12. Paragraph 205 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 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Taking into account the scale of the proposal and the building, the extent and nature of the historic fabric and the irregular pattern of fenestration, I find the harm to be less than substantial but nevertheless of considerable importance and weight.
13. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimal viable use. In this case, the proposal would create a window in a currently blank wall and dark corner of the kitchen/ dining room. In the absence of evidence that the dwelling fails to provide an adequate standard of living conditions, this would be a private benefit. There would be very limited economic benefits during works. These are not sufficient to outweigh the harm that I have identified. Moreover, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.
14. Given the above, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building, thus failing to satisfy the requirements of the Act, paragraph 205 of the Framework and development plan policies insofar as relevant.

Conclusion

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

Sarah Manchester

INSPECTOR