



Appeal Decisions

Site visit made on 22 January 2024

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal A Ref: APP/G2435/Y/23/3326201

47 Market Street, Ashby de la Zouch, Leicestershire LE65 1AG

- 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 BTA Partnership against the decision of North West Leicestershire District Council.
- The application Ref 23/00589/LBC, dated 14 May 2023, was refused by notice dated 18 July 2023.
- The works proposed are to change timber door to timber sash window (with centre bar).

Appeal B Ref: APP/G2435/Y/23/3328117

47 Market Street, Ashby de la Zouch, Leicestershire LE65 1AG

- 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 BTA Partnership against the decision of North West Leicestershire District Council.
- The application Ref 23/00621/LBC, dated 20 May 2023, was refused by notice dated 18 August 2023.
- The works proposed are installation of external staircase and change of sash window to timber door to allow access for two flats.

Decision

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

Preliminary Matters

3. As the appeal building is a listed building, I have had special regard to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. I understand the Council has already granted listed building consent for the replacement of the double doors and the formation of a ramped access with handrails as well as internal works to the outbuilding to facilitate its use as a staff/delivery area. I saw at my site visit that internal works had commenced to the building.
5. Since the application was determined, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

Main Issues

6. The main issue for both appeals is the effect of the works on the special architectural and historic interest of the listed building.

Reasons

Significance

7. No 47 Market Street is a three storey listed building grade II. It dates from the early eighteenth century with later additions constructed from red brick with a slate roof and brick end stacks. It has a principal elevation to Market Street which introduces a commercial frontage at ground floor. The first and second floors have symmetrical fenestration with an elaborate late nineteenth century eaves cornice with brick corbelling supporting a low parapet.
8. To the rear the elevation is simple with a number of windows including a lower window with a round arched head. Although not mentioned in the list description attached to the rear elevation by a modern infill is a single storey outbuilding of red brick with a plain tile roof. Relatively unadorned it has double doors and a single door on the western elevation, together with a window in its northern elevation.
9. The significance of the building for the purposes of this appeal is its architectural and historic importance as an eighteenth century house which retains significant historic features both internally, notably a complete early eighteenth century staircase, and externally. The external fabric and fenestration are mostly retained in their original constructed form on both the main building and the outbuilding.

Effect on significance

Appeal A: Door to outbuilding

10. The proposal would see the removal of the single door on the western elevation of the building and its replacement with a window. From the evidence supplied by the Council, and not disputed by the appellant, the door is made of timber with a painted finish. It is a panel door with a thumb latch of traditional character. The size and extent of the door opening would be retained, together with the existing arched brick lintel. The door would be replaced with a timber sash window with brickwork below. Nevertheless, the loss of the traditional door would cause some harm, removing evidence of the original features eroding the significance of the building and its legibility as an outbuilding to the original dwelling.

Appeal B: Sash window, staircase and internal alteration

11. The proposal would see the introduction of an external stair, the alteration of a window opening to form a door opening and, internally, the insertion of a fire rated stud partition.
12. The external staircase would be constructed from m.steel and painted black comprising the staircase and platform giving access to a door at first floor. The door would replace the existing arch headed window, albeit the window head would be retained, but reglazed. While the door would be designed to replicate the style of the window, it would cut through the cill, be of a larger size and completely alter the design and appearance of the window resulting in the loss

of architectural features which contribute to the significance of the building whether visible or not. The staircase would be a sizeable feature causing visual modern clutter to the rear of the building also eroding its significance.

13. The stud partition would be located at first floor to the staircase, altering the plan form and interrupting the flow of the staircase which would dilute the significance of this important feature of the listed building.

Public benefits and balance

14. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
15. Given the extent of the works relative to the building, I find the harm to the listed building to be 'less than substantial' for both appeals but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.

Appeal A

16. There is no independent report before me to support the appellant's case that the existing door is beyond repair.
17. Introducing a lower course of bricks may reduce external moisture entering the building. Furthermore, it is true that adequate ventilation is important to ensure that historic fabric is not harmed, particularly in this case given that consent has been granted for increased insulation. However, there is no substantive evidence before me to suggest that the window in the end elevation could not be a comparable source of ventilation even if that solution may be more costly. While that would need some alteration, the Council provide drawings showing that inserting two openable areas into the otherwise fixed window, would create a comparable openable area with less alteration to the fabric of the building. This has not been disputed by the appellant. Therefore, there is nothing conclusive before me to suggest that the proposal would be the only solution to secure the optimum viable use. There would be minor economic benefits from the purchase and installation of the window and bricks.
18. Therefore, I consider that the benefits would be insufficient to outweigh the considerable importance and weight I attach to the harm I have identified. For the reasons above I conclude that the proposal would fail to preserve the Grade II listed building, 22 and 24 Northgate, or any features of special architectural or historic interest which it possesses, contrary to the requirements of section 16(2) of the Act and the relevant provisions within the Framework which seek to conserve and enhance the historic environment.

Appeal B

19. A means of escape is required for Building Regulation requirements to facilitate the introduction of the two flats on the upper floors of the building, and due to

the internal arrangement of the property the appellant considers an external staircase, together with the associated internal and external alterations is the only practical solution. However, there is no substantive evidence before me to suggest that the use of the upper floors as flats would be the optimum viable use, or that there are no other solutions available to provide the means of escape. There may be other uses, or alterations, which could be implemented that would not involve such harmful alterations.

20. I have not been advised that the property is in a Conservation Area. While the alterations are to the rear elevation of the property, which cannot be seen from any public road or path, I have still identified that the proposed works would cause harm to the significance of the listed building.
21. There would be minor economic benefits from the purchase and installation of materials to facilitate the works. Furthermore the creation of two units of accommodation within an accessible location would contribute to the Council's housing supply and there would be social and economic benefits from the prospective occupants to the local economy. However, the benefits I have identified would not outweigh the considerable importance and weight I attach to the harm I have identified. For the reasons above, I conclude that the proposal would fail to preserve the Grade II listed building, 22 and 24 Northgate, or any features of special architectural or historic interest which it possesses, contrary to the requirements of section 16(2) of the Act and the relevant provisions within the Framework which seek to conserve and enhance the historic environment.

Conclusion

22. For the reasons above I conclude that both appeals are dismissed.

Zoe Raygen

INSPECTOR