



Appeal Decision

Site visit made on 26 February 2024

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/T2350/Y/23/3329218

Hodder Court, Flat 3, Knowles Brow, Lancashire, Hurst Green, BB7 9PP

- 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 J Booth against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/1176, dated 21 December 2022, was refused by notice dated 14 March 2023.
 - The works proposed are described as 'alterations to the internal layout to create room and storage within the existing roof space and insertion of new roof lights where the original roof lights have been previously removed.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As the works relate to a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. On 19 December 2023 the government published its revised National Planning Policy Framework (the Framework). Whilst this post-dates the evidence provided by the main parties in relation to this appeal, since the revised Framework's approach to the main issues in this case has not altered significantly, I confirm that all references to the Framework in this decision are to the updated 2023 version.

Main Issues

4. The main issues are:
 - the effect of the proposed works on protected species, having particular regard to bats; and
 - whether the works would preserve the Grade II listed building, Hodder Place (Ref: 1147035) and any of the features of special architectural or historic interest that it possesses.

Reasons

5. The appeal property is a first floor flat in the listed building at Hodder Place (now known as Hodder Court). Built as a single dwelling and subsequently used as a preparatory school, the substantial building was divided into residential units in the 1980s. It is situated at the end of long private drive
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and public footpath, in an area of open countryside and woodland. The proposed works would see the conversion of the loft space to provide a bedroom, ensuite and storage area.

The effect of the proposed works on bats

6. It must be noted that any grant of listed building consent would not override the requirements of separate legislation, which dictates that it would be an offence to kill, capture or disturb a bat, or to damage or disrupt access to a roost. The Natural Environment and Rural Communities Act 2006 (NERC Act) places a duty on all public authorities to have regard in the exercise of their functions, to the purpose of conserving biodiversity. A mitigation license is required for any activities that would otherwise be illegal. The issue of such licences is the sole responsibility of Natural England, however, with Regulations 9(1) and 9(3)¹ in mind, and my duty as the competent authority, I have had regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of my functions.
7. There is no dispute concerning the presence of a protected species. A Preliminary Roost Assessment (PRA) undertaken in July 2022 confirms two individual common pipistrelle bats to be roosting in the loft space of the appeal property, with an abundance of droppings reflecting a long term established roost indicative of a breeding site. Subsequent activity surveys indicate that the bat roost spans throughout the full extent of the loft voids above the flats.
8. The PRA finds that in the absence of mitigation, the proposed works would result in a high negative impact on the maternity roost at a local level, and that accordingly the proposed works could only be carried out under a mitigation license. For this to be granted Natural England require three legal derogation tests for the development to be met.
9. The first test stipulates that the activity must be for a certain purpose, for example scientific interest or in the public interest. The Council refers to this as preserving public health or public safety or other imperative reasons of overriding public interest. The PRA refers to an overriding public interest, such as providing housing in an area where there is a shortfall.
10. The appellant argues that this test would be met. The appellant currently lives with their two adult sons who are unable to move out due to the economic climate. The existing accommodation and layout of the appeal property is unsuitable for three adults and does not provide satisfactory living space for the occupants. The flat is open plan with only the small bedroom as private space. The countryside location is also important to the appellant's physical and mental health and well-being.
11. Additionally the appellant's grandchildren are unable to stay at the appeal property and so are deprived of the social, mental and physical benefits derived from the property's countryside setting and from spending time with family. The appellant has considered buying a larger property, but advises that this is not a realistic prospect financially, and suggests that properties in the block are hard to sell.

¹ Of the Conservation of Habitats and Species Regulations 2017 (as amended)

12. That said these are private not public matters. The proposed works concern the extension of private living accommodation for private use. This being so I am not persuaded that the works would be undertaken in relation to public health or safety concerns or any other reasons of overriding public interest. Accordingly I find that this test would not be met.
13. In this context, notwithstanding the Council's findings with regard to the second and third tests, since all the tests would need to be met, I agree with the Council that the proposed works would be unlikely to be licensed. Thus, whilst I appreciate that the decision to grant a license would ultimately be made by Natural England, and note that no comments have been received from them with regard to the proposed works, based on the evidence before me, and having regard to my duties under Regulations 9(1) and 9(3) and considering the three tests in light of any proposed mitigation or compensation, I cannot be satisfied that a mitigation license would be issued.
14. I therefore conclude on this main issue that the proposed works would be harmful to protected species, having particular regard to bats. They would thus be contrary to the NERC Act and paragraph 186 of the Framework which aims to avoid harm to biodiversity. They would also fail to support Policy DME3 of the Ribble Valley Core Strategy (CS) which seeks to protect habitats and protected species and resist proposals likely to have an adverse effect on these unless it can be clearly demonstrated that the benefits outweigh the local and wider impacts.

The listed building

15. Hodder Place is built of sandstone ashlar with slate roofs and dates to the late 18th century, with early 19th century additions and later 19th century extensions. It has a U shaped footprint with two winged elements. The front three storey wing of the building faces south and adjoins a two storey block which runs from north to south. This is built in sandstone rubble with a pair of matching distinctive later 19th century octagonal towers with conical roofs at each end where it joins the front and back wings.
16. The appeal property is a first floor flat in the section of the building running north to south. Its east elevation faces towards a formal tiered garden area with the river Hodder beyond, and its west elevation faces into the courtyard created by the U shaped footprint of the building.
17. The appellant indicates that the east and west elevations of this block date from the 1980s conversion. Whilst the east elevation retains a traditional fenestration pattern, those to the west courtyard side are more modern in form and detail, and there is a modern entrance canopy there. It is also stated that the roof was replaced at this time in blue slate. The Council does not dispute these matters. Additionally I saw at my site inspection that the flank elevations of the adjoining wings where they face into the courtyard display a variety of render and stonework and are also more modern in appearance.
18. That said, despite these alterations, the building as a whole maintains its historic character, scale and proportions as well as some remaining elements of its historic fabric and distinctive historic architectural features, and the use of traditional materials predominates. As a result, the building retains its

grandeur and charm and its historic character and legibility as what would have been a considerable and attractive house of some standing endures.

19. From the evidence before me, insofar as it relates to this appeal, I therefore find that the special interest of the listed building is drawn from its impressive scale and proportions, as well as from its traditional materials and distinctive architectural design.

The effect of the proposed works on the listed building

20. the Council raises no objections to the internal works which are considered to preserve the special interest of the listed building. I see no reason to come to a different view on this matter. Two conservation style rooflights would be inserted into the property's western roof plane facing out on to the courtyard. Whilst these would require the removal of sections of the slate roof, since this dates to when the building was converted the Council is satisfied that no loss of historic fabric would result.
21. The building has other rooflights. The Council refers to two previously approved rooflights at Hodder Bank and Flat 7 which date to the 1980s and accepts that the flush fitting conservation style design of the proposed rooflights, would be an improvement on the existing rooflights which are of a standard design. However, despite these limited examples, rooflights do not predominate as a feature on the building, which is characterised overall by open uninterrupted sweeping roof planes. Notably there are no other rooflights on the western roof slope where the proposed rooflights would be inserted.
22. By their nature, the rooflights would be of a modern design with a glazed reflective surface. This would be in direct contrast to the traditional nature and natural finish and texture of the slate roof. They would be inserted into what is a clear and featureless expanse of traditional roof. In this context, despite their relatively modest size and conservation style design, they would stand out as isolated and conspicuous modern features.
23. I appreciate that the proposed rooflights would not affect the more primary façades of the building. They would not be seen in the context of the south side of the south wing of the building on approach along the access drive. Nor would they upset the pleasing composition of the building's eastern facing elevation or its distinctive tower features. As set out above, I also accept that the western flank of the building where the rooflights would be located and the buildings facing the courtyard are more modern in character.
24. Even so, the proposed rooflights would be prominent and visible in views from the access driveway and right of way which runs to the western side of the building. From there they would be appreciated as obvious and distracting additions that would detract from the building's uncluttered traditional roofscape. In doing so the proposed works would undermine the building's traditional historic character and erode its characteristic architectural design. Thus I find that the proposed works would impair the building's historic legibility and reduce its authenticity as a former high status traditional country residence.

25. The appellant indicates that there were previously rooflights at the appeal property. It is argued that the lower part of the roof space was at one time covered by lath and plaster and probably formed the upper part of a formerly much taller upper storey of the building. In the west side of the roof central to the bays are what the appellant's specialist describes as two obvious former openings for rooflights, below which would have been lath and plastered sides, to form lightwells down to the space beneath.
26. That said, whilst I observed the arrangement of the internal roof timbers described at my site inspection, no further evidence has been provided to demonstrate that these were necessarily associated with rooflights. I note that the Council has reviewed historic plans, drawings, aerial imagery and historic photos and found no evidence of rooflights at the appeal property. In this context, and in the absence of any further compelling information from the appellant, I cannot be satisfied that rooflights were necessarily formerly present at the appeal property. In any event, any such openings have long since been removed and it remains that the listed building is characterised by open and unadorned roof planes and a general absence of rooflights.
27. Taking all these factors into account, for the reasons given, I therefore conclude on this main issue that the proposed works would fail to preserve the special interest of the listed building. I give this harm considerable importance and weight in the balance of this appeal.

The heritage balance

28. The Framework advises at paragraph 205 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. I consider that the harm to the listed building in this case would be less than substantial, but nevertheless of considerable importance and weight.
29. Paragraph 208 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. The benefits of the scheme are set out in relation to the first main issue in this case. The works would enable the provision of suitable accommodation for three people (and family visitors) and allow the appellant to remain in a countryside location which is beneficial to them and their family's well-being. However, the benefits that would arise in these regards are substantially private.
30. I therefore find that the public benefits in this case are insufficient to outweigh the harm to the designated heritage asset that I have identified. For these reasons the works would fail to satisfy the requirements of the Act and paragraph 203 of the Framework. Whilst the decision notice refers to Key Statement EN5 and Policy DME4 of the CS, I am mindful that listed building appeals are not subject to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and so do not need to be determined in accordance with the development plan.

Overall planning balance

31. I have found that the proposed works would fail to preserve the special interest of the listed building and would be harmful to protected species. The proposed works would provide benefits to the appellant which are considered above. However, overall I find that even taken together these are insufficient to outweigh the harm that I have identified in relation to the main issues and the conflict with the development plan that would arise.

Conclusion

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

E Worthington

INSPECTOR