



Appeal Decision

Site visit made on 27 February 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/P1045/Y/23/3328433

45 St. John Street, Ashbourne, Derbyshire DE6 1GP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Nick and Carlene Crossland-Taylor against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/00450/LBALT, dated 27 April 2023, was refused by notice dated 23 June 2023.
 - The works proposed are described as 'Formation of new opening in wall between kitchen and dining room.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, the Government released an updated version of the National Planning Policy Framework (the Framework). As the changes do not affect the consideration of the main issue of this appeal, I have not sought comments on the revisions.

Main Issue

3. The main issue is whether the proposed works would preserve the listed building, or any features of special or historic interest which it possesses.

Reasons

Special Interest and Significance

4. The appeal relates to 45 St. John's Street which is a mid-terrace, three-storey property built from red brick. The building evidently dates from the 18th Century and is listed in its own right, while the listing description¹ highlights the group value as part of No's 45-51. The site is located within the Ashbourne Conservation Area (ACA).
5. From all I have seen and read, alongside my observations on the site visit, the significance of the listed building derives mostly from its historic and architectural interest. As part of these interests, the surviving historic fabric and the remaining legibility of the property's historic plan form are of particular relevance to the appeal.

¹ List Entry Number: 1109493

Effects of the Proposed Works

6. The proposal seeks the removal of much of the existing dividing wall between the kitchen and dining room. This wall was evidently a fireplace at one time, although numerous alterations have taken place and it seemingly has not functioned in this manner for some time. There is evidence of underpinning at first floor level to support the remaining chimney stack which I observed on the site visit. Further engineering works would be required to ensure the structural integrity of the building.
7. The works would facilitate the creation of a combined kitchen/dining room. There is broad agreement between the main parties that some parts of the wall are not original, although given the age of the brickwork it is considered historic fabric. Guidance from Historic England² states in this regard that historic fabric will always be an important part of the asset's significance while also adding that it is not appropriate to sacrifice old work simply to accommodate the new.
8. The irrevocable loss of historic fabric would therefore not conserve the heritage asset in a manner appropriate to its significance. Moreover, the conjoining of the current kitchen and dining rooms would dilute the legibility of the remaining plan form of the property.
9. Although the wall is described as 'much mutilated', alterations in the past to the plan form, harmful or not, do not justify further change. Conversely, in my view this places further importance on retaining the remaining historic fabric and plan-form that survives to preserve the special interest and thus the significance of the building. Moreover, there is a general lack of information regarding the insertion of new steelwork to support the works which limits a meaningful assessment and one which would not be suitable to address by condition.
10. My attention is drawn to a previously approved planning application³ and a listed building consent⁴ in 2005. These included works to remove a chimneystack/chimneybreast and a wall on the west side of the existing kitchen, as well as external excavation works. Evidently, these permissions are extant following the removal of the chimneystack and part of the chimneybreast at first floor level. It is argued that these works could still be implemented, and that they would be much more invasive and harmful to the significance of the listed building than the proposal before me.
11. Be that as it may, the desired outcome of the proposal is a modern and larger open plan kitchen and dining space. The proposal before me is clearly preferable and the previously approved layout has not been implemented in the years since it was granted permission. As such, this lessens the weight I would afford to this fallback position.
12. It is suggested that the remaining, unimplemented elements of the 2005 listed building consent could be revoked under Section 23 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act), which the appellant considers more harmful than the proposal before me. However, other than reference to this being an option, there is nothing before me to indicate how

² Making Changes to Heritage Assets - Historic England Advice Note 2 (February 2016)

³ 05/00307/FUL

⁴ 05/00308/LBALT

this would work in this appeal. Section 23(1) of the Act states that the authority (as in the local planning authority) may by order revoke or modify the consent to such extent as they consider expedient.

13. Given that the appellant suggested this approach, this would then fall to Section 25 which relates to unopposed cases. This approach requires that the order be advertised, and notice served on the persons affected by the local planning authority. There is nothing before me to indicate that any of these steps has taken place, and the Secretary of State is not required to be involved in an unopposed case under Section 25. Regardless, I am dismissing the appeal based on its own merits and I have not considered this matter further.
14. Bringing things together, the proposed works would fail to preserve the listed building, or any features of special architectural or historic interest which it possesses. Consequently, they would not sustain or enhance, but rather cause harm to, the significance of a designated heritage asset.

Public Benefits and Heritage Balance

15. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I have found in this instance that the proposal would harm the significance of the designated heritage asset. I agree that the magnitude of harm would be less than substantial due to the nature and scope of the works. However, as per the Framework this harm carries great weight.
16. Paragraph 208 advises that in the case of less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
17. There are no public benefits forwarded in the appeal documents and given the nature of the works proposed these would mostly be private. There may be some public benefits, such as construction and improvements to the Council's housing stock. However, given the nature and scope of the proposal any benefits in this regard would be modest. Moreover, there is no substantive evidence that the works are required to secure the optimum viable use of the building as there seems no risk of its use being lost based on all that I have seen and read.
18. Accordingly, the proposed works would not preserve the listed building, or any features of special architectural or historic interest which it possesses. As such, they would not satisfy the requirements of section 16(2) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment.

Other Matters

19. The appeal site is located within the ACA. As such, I have had regard to section 72(1) of the Act, which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area. The character and appearance and thus the special interest and significance of the ACA mostly stem from its historic street pattern and the variety and architectural richness of its historic buildings, which denote the settlement's evolution. No 45 adds considerably to Ashbourne's historic and

aesthetic charm. In doing so it positively contributes to the character and appearance of the ACA as a whole and thereby to its significance as a designated heritage asset. Nonetheless, given the location and nature of the proposed works, the character and appearance of the ACA as a whole would be preserved. I note the Council raised no concerns in this respect either.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR