



Appeal Decision

Site visit made on 23 April 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2024

Appeal Ref: APP/U2750/Y/23/3334790

Flat 4, 24 Esplanade, Scarborough, YO11 2AQ

- 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 Adam Cockroft against the decision of North Yorkshire Council.
 - The application Ref is ZF23/00869/LB.
 - The works proposed are replacement of timber windows with UPVC to the 2 front windows.
-

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.
3. The decision notice offers one reason for refusal based on the harmful effects of the proposal on the special interest and significance of the listed building. The appeal site is also located within the Scarborough Conservation Area (SCA).
4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states the following in regards to the general duty as respects conservation areas: *In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
5. Subsection (2) states that the provisions referred to in subsection (1) include the planning Acts. Therefore, while planning permission was not sought for the proposal, as the appeal property is within the SCA, as an Inspector I have a statutory duty to consider any impacts of the proposal upon the SCA. Both main parties were therefore contacted for their views on this additional main issue which I have taken into account in the determination of this appeal.

Main Issues

6. The main issues are whether the proposal would: (1) preserve the listed building or any features of special architectural or historic interest which it

possesses; and (2) preserve or enhance the character or appearance of the SCA.

Reasons

Special Interest and Significance

7. The appeal site is a mid-terrace property forming part of the Grade II listed '20-29, Esplanade'. The listing description¹ advises that the terrace dates from around 1840 and is formed of three storey terraces with later attic additions which are described as considerably altered but retaining their general character.
8. From all I have seen and read, the special interest and significance of the listed building is largely derived from its historic and architectural interests. The historic interest is predominantly taken from its age and illustration of mid-19th century domestic architecture alongside the economic prosperity of the town as a seaside tourist resort particularly in the Victorian era. Architectural interest is mainly drawn from its simple yet pleasing form and surviving architectural detailing, such as the classical stucco rendered frontage and features such as recessed sash windows and iron trellis canopies. The windows across the terrace are visually distinctive and generally feature the recurring arched transom.
9. There is further significance drawn from its group value, particularly with No's 1 to 19, the Villa Esplanade Hotel, the Esplanade Hotel and the Prince of Wales Hotel, which are referenced in the listing description, and the substantial positive contribution the terrace makes to the character and appearance of the wider streetscape.
10. The SCA has a distinctly mixed character reflecting the town's history and popularity with holidaymakers in the Victorian era in particular for its spa and seaside location. The SCA includes a number of fine Victorian buildings including grand terraces, villas and hotels, together with formal squares and expansive public gardens.
11. The section of the SCA within which the appeal site is located is characterised by its Victorian architecture, including terraces with regular facades and rooflines and a cohesive palette of materials. As such, the significance of the SCA, insofar as it relates to the appeals, is associated with the fine detailing of building frontages which generally face towards the sea, and surviving historic fabric. From my observations on the site visit, the appeal property and host terrace make a significant positive contribution the character and appearance of the SCA. This is particularly in light of the surviving historic fabric and detailing of the building.

Proposed Works and Effects – Listed Building

12. Section 16(2) of the Act requires that special regard shall be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
13. The proposal seeks to replace the existing timber framed windows on the third floor of the front elevation of the appeal property with white uPVC frames of a

¹ List Entry Number: 1258437

similar design. The new windows would be double glazed and incorporate a wood grain effect along with the arched transom feature of the existing windows.

14. Although there is a drawing² of the proposed window it lacks detail and is not of a suitable scale to accurately assess the suitability of the works. From the limited information before me on this matter, it does appear as though the bottom section of the frame of the proposed window is significantly thicker than the existing. As such, I cannot be certain that the proposed windows would satisfactorily replace the detailed dimensions, profile and design of the existing units.
15. Moreover, there is a lack of detailed evidence before me to justify wholesale replacement of the windows. I have nothing to indicate the existing condition of the windows or whether they are in urgent need of replacement. Indeed, the appellant indicates that they have been recommended accoya timber due to the location near to the sea. Evidently these would be suitable in the location which leads me to conclude timber is viable as a replacement.
16. In any event, uPVC, even with a grained effect, is a synthetic and modern material which does not adequately emulate a painted timber texture and is incompatible with the historic and architectural integrity of the listed building as identified above. As such, I am not convinced that the proposed windows are a 'good match' and that they would preserve the special interest of the listed building, despite being the same colour.
17. While I understand that cost is a relevant constraint to the appellant, it does not justify the harm that I have identified. I am informed that there have been other approvals of listed building consent for similar proposals, including in the host terrace. However, other than their planning reference numbers, addresses and short descriptions I have nothing substantive before me to compare and contrast these in the assessment of this proposal. In any event, I have assessed the proposal on its own merits.
18. The works would therefore weaken the architectural integrity of the listed building and detrimentally undermine its heritage merit. As such, the proposal would not preserve the listed building or any features of special architectural or historic interest which it possesses. It would therefore fail to satisfy the requirements of section 16(2) of the Act and would harm the significance of this designated heritage asset.

Proposed Works and Effects – SCA

19. Section 72(1) of the Act states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
20. Given I have identified harm to the listed building, and bearing in mind the significant positive contribution that the host terrace makes to the character and appearance of the SCA, it logically follows that harm would also occur to the character and appearance of the SCA as a result of the proposal. I have taken the appellant's additional comments into account, although these largely followed the same arguments put forth in their original appeal statement.

² Drawing Ref: AC/01

21. Therefore, the proposal would not preserve or enhance the character and appearance of the SCA. It would therefore fail to satisfy the requirements of section 72(1) of the Act and would harm the significance of this designated heritage asset.

Public Benefits and Heritage Balance

22. 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 listed building and the SCA, both of which are designated heritage assets. Although the Council has not signified the level of harm as per the requirements of the Framework, to my mind the magnitude of harm would be less than substantial due to the nature and scope of the works. However, this harm carries considerable importance and weight and would apply to each heritage asset in turn.
23. Paragraph 208 of the Framework 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.
24. I understand that a local contractor would carry out the work if the appeal was successful. However, given the nature and scope of the proposal any benefits in this regard would be very modest. It is further claimed that the existing windows are causing damp, and that their replacements would be thermally more efficient. I am mindful of paragraph 164 of the Framework which advises that in determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings. However, I have no evidence before me to substantiate the thermal improvements, or that they would improve sound insulation and general safety. Moreover, paragraph 164 goes on to state that where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of the Framework, which I have done.
25. Even if I was to take these aspects into consideration, any benefits in these regards would constitute very modest weight in favour of the scheme. This would not be sufficient to outweigh the considerable importance and weight given to the identified harm to designated heritage assets.
26. Accordingly, the proposed works would not preserve the listed building, or any features of special architectural or historic interest which it possesses and would not preserve or enhance the character or appearance of the SCA. As such, they would be contrary to the requirements of sections 16(2) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment.

Other Matters

27. A large part of the appellant's case centres around the Council's handling of the application for listed building consent and the aforementioned approvals elsewhere for similar proposals. While this is unfortunate, the Council will have

its own complaints procedure and it is not my role to mediate disputes of this type. I have had regard only to the merits of the case based on the evidence before me.

28. I note the supporting comment in favour of the proposal and have covered the issues raised in the relevant sections of this decision letter.

Conclusion

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

C McDonagh

INSPECTOR