



Appeal Decision

Site visit made on 12 August 2024

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2024

Appeal Ref: APP/K0235/F/23/3324905

4-5 Monk's Row, Pavenham, Bedford, Bedfordshire, MK43 7NS

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Mandy Rintoul against a listed building enforcement notice issued by the Bedford Borough Council.
 - The listed building enforcement notice was issued on 1 June 2023.
 - The contravention of listed building control alleged in the notice is without listed building consent, the following works: Replacement of five side hung timber casement windows on the west elevation of the building and four side hung timber casement windows on the east elevation with uPVC windows.
 - The requirements of the notice are:
Remove 5 windows numbered 1-5 on the west elevation and 4 windows numbered 1-4 on the east elevation (as identified on the attached plan marked as Appendix 2) and replace each of them with a window comprising a pair of side-hung flush profile casements of timber construction with each casement having a single horizontal structural glazing bar. The windows shall be set to the same depth in the reveal from the outer wall face as the existing windows. Each casement shall have two individual panes of single glazing (i.e. not double-glazed) with each pane fixed in place with linseed putty. The glazing layouts and proportions must match those shown on the drawings and the sectional drawing provided for detail in Appendix 3. The windows shall be painted inside and out with two coats of white gloss paint following application of primer and undercoat suitable for timber.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1)(e), (f) and (h) of the Act.
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Decision

1. It is directed that the listed building enforcement notice be varied in Section 7 deleting "3 months" and substituting instead "9 months". Subject to the variation, the appeal is dismissed and the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended ("the Act").

Background

2. The appeal building No. 4-5 Monk's Row (originally two dwellings) forms part of the whole range of two-storey terraced cottages which together comprise the Grade II listed building at 1-5 Monk's Row in the village of Pavenham. It dates from the 18th Century, constructed in coursed limestone with timber doors and windows and with clay roof tiles. The terrace is oriented with its gable end perpendicular to High Street within the Pavenham Conservation Area (PCA).

3. Section 16(2) of the Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the PCA.

Appeal on ground (f)

4. The Council's evidence is that the appellant was not served a copy of the notice because she was not listed as having an interest in the property based on Land Registry searches carried out at the time the notice was issued.
5. It is not clear from the appellant's evidence whether she was in fact the owner on the date the notice was issued. However, it is evident the appellant became aware of the notice, indeed she must have been so in order to lodge the appeal through her agent and argue her case accordingly. Her appeal therefore cannot have been prejudiced by non-service.
6. In this regard s41(5) of the Act provides that any failure to serve a copy of the notice on an interested party may be disregarded if the party has not been substantially prejudiced. Hence in this particular case, even if she was an interested party on the relevant date, such a failure should be disregarded.
7. The appeal under ground (f) fails.

Appeal on ground (e)

8. An appeal on ground (e) is that listed building consent should be granted for the works referred to in the notice, being the removal of nine timber framed windows and their replacement with the white uPVC double glazed units.
9. The cottages are of a very simple and modest design with little architectural ornamentation to the elevations. The timber windows that were removed from No.4-5 appear to have been slightly different to those in the rest of the terrace. However, while timber windows in the terrace have over time been replaced with comparable timber windows, they continue to reflect the original modest historic character and appearance of the listed building in terms of materials, form and composition. As such, the traditional form and structure of timber windows in this listed building are a significant feature of its overall character and historic interest.
10. Even subtle differences between the form of historic windows and proposed replacements can have a significantly harmful effect on the integrity and special interest of a listed building. In this regard the uPVC replacement windows have an inappropriate modern production sheen finish with non-structural glazing bars. The internal gap between the two panes is of a depth that also results in a 'double-register' reflection in certain views. The frames also appear heavier in composition than the more slender and traditional form of timber windows they replaced, as evident in the other cottages within the listed building.
11. Taking these factors in combination, the uPVC replacements overall have a clearly modern appearance contrasting sharply and inappropriately with the traditional and historic fabric and character of the listed building. As such I conclude that the works carried out result in harm to its character and historic interest. The works therefore fail to preserve the special architectural and

historic interest of the listed building. Accordingly, therefore, the works conflict with the overarching statutory duty as set out in the Act, which must be given considerable importance and weight. Accepting the replacement windows are generally less visible from the public domain, they nonetheless fail to preserve or enhance the character or appearance of the PCA.

12. In the language of the Framework¹ the listed building and the PCA are 'designated heritage assets'. Although the harm to the listed building is significant, it falls to be considered, along with the harm to the PCA, as 'less than substantial'. As set out at Framework paragraph 208, reflected in Policy 41S(iv) of the Bedford Local Plan (2020), less than substantial harm should be weighed against any public benefits. In this regard I note the appellant's references to the eco-thermal advantages of double glazed units. However, these do not provide a level of public benefits which can be said to outweigh the identified harm.
13. The scheme therefore conflicts with the Framework, which directs, at paragraph 205, that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
14. For these reasons the appeal on ground (e) fails.

Appeal on ground (h)

15. The ground of appeal is that the 3 months period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant seeks a period of 9 months.
16. The appellant is entitled to await the outcome of the appeal before committing time and potentially expenditure in obtaining surveys and cost estimates for the required remedial works. Contrary to the Council's view therefore I take no account of any time that has elapsed prior to the appeal being determined.
17. There are 9 windows to be replaced, each one requiring a detailed on-site survey and assessment before manufacture, installation and painting. The carrying out of the works are also likely to be subject to the scheduling constraints of a suitable contractor. Weather conditions may also have an impact on the timing of completing painting finishes.
18. Taking account of these factors I consider that 9 months would be a more reasonable period of time for compliance. The appeal on ground (h) therefore succeeds and I have directed that the notice be varied accordingly.

Thomas Shields

INSPECTOR

¹ National Planning Policy Framework (December 2023)