



Appeal Decisions

Site visit made on 3 October 2024

by Neil Pope BA (HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal A Ref: APP/Y1110/W/23/3324304

Trees Court Studio, Victoria Road, Topsham, Exeter, Devon, EX3 0EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Walton against the decision of Exeter City Council (the LPA).
 - The application reference is 22/1404/FUL.
 - The development proposed is a change from a window to a window and an external door.
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Appeal B Ref: APP/Y1110/Y/23/3324303

Trees Court Studio, Victoria Road, Topsham, Exeter, Devon, EX3 0EU.

- 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 J Walton against the decision of Exeter City Council (the LPA).
 - The application reference is 22/1405/LBC.
 - The works proposed are a change from a window to a window and an external door.
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Decisions

1. The appeals are dismissed.

Preliminary Matters

2. The appeal site forms part of the grade II listed building at 25 and 26 Fore Street¹. It also lies within the Topsham Conservation Area² (TCA).

Main Issue

3. The main issue in both appeals is whether any harm to the heritage interest (significance) of 25 and 26 Fore Street or the TCA would be outweighed by any public benefits of the proposal.

Reasons

4. The significance of the three storey 25 and 26 Fore Street is primarily derived from the building's special architectural and historic qualities. These include the 19th century shop fronts, rendered 18th and 19th century walls, slate roof and the painted timber sash windows with glazing bars.
5. The TCA is an extensive area that encompasses much of the historic port town of Topsham, as well as some neighbouring agricultural land. The significance of this designated heritage asset is primarily derived from its special architectural and historic qualities. These include the growth and development

¹ The provisions of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

² The provisions of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

- of the settlement since the medieval period, as well as the contribution made by the many listed buildings. Amongst other things, the LPA's Conservation Area Appraisal identifies key characteristics of the TCA. These include wooden sliding sash windows.
6. The proposed works relate to a ground floor flat. Over time, there have been some alterations to 25 and 26 Fore Street, including this flat. However, the ground floor painted timber sash window with glazing bars, which is the subject of these appeals, and the section of wall beneath it appear to form part of the original fabric of the building. The internal timber panelled shutters appear to be a later addition but are sympathetic to the style of window.
 7. Other than one broken pane of glass, the sliding sash window looks to be in a sound condition. It matches the design, style, proportions and appearance of the window immediately above in the first floor flat. Notwithstanding some opaque plastic covering³ applied to the inside of the glazing on the lower sash in the ground floor flat, this timber sliding sash window contributes to the special architectural and historic qualities of 25 and 26 Fore Street. It is also an expressive feature within the flank wall of this listed building and comprises a pleasing and traditional attribute within this part of the TCA. The window that it is proposed to remove makes a positive contribution to the significance of 25 and 26 Fore Street and to the TCA.
 8. The proposed door and window would not alter the width of the existing opening and the detailing would match the existing joinery, in so far as comprising painted hardwood and glazing. However, the proposal would entail the removal of the existing sash window and a section of wall beneath. It would also increase the size of the opening in the flank wall and the new door and casement window would not successfully harmonise with the sliding sash window above. The proposal would result in the loss of important historic fabric and a traditional sliding sash window that contributes to the significance of both the listed building and TCA. It would harm the significance of these designated heritage assets. The removal of the internal shutters would also have an adverse effect upon the special qualities of the listed building although this impact would be very minor.
 9. The impact of the proposals is unlikely to be discerned from Fore Street. However, the harm to the significance of the listed building and this part of the TCA would be apparent from the public footpath immediately alongside the flank wall of the appeal building.
 10. I note the appellant's argument that some unsympathetic alterations to the appeal building have been removed and that the proposed works would be reversible. However, it is unclear what these other unsympathetic works comprised and it is evident that their removal was not dependent upon the appeal proposal. Moreover, if these appeals were allowed, I consider it most unlikely that a painted hardwood sliding sash window would be reinserted at a future date. Even if this was to occur, it is difficult to comprehend the existing sash window and wall fabric being carefully removed, held safely in storage somewhere until such an eventuality and then successfully restored to the building. The proposal would result in the permanent loss of important historic fabric and a lasting adverse impact upon important heritage assets.

³ I presume this was undertaken to increase privacy for the existing occupant of the flat.

11. In the context of the National Planning Policy Framework (the Framework), the proposal would amount to less than substantial harm to the significance of the listed building and the TCA. However, this does not amount to a less than substantial planning objection. As also set out within the Framework, great weight should be given to an asset's conservation when considering the impact of proposals. Less than substantial harm must be weighed against any public benefits including, where appropriate, securing its optimum viable use.
12. In this regard, the appellant has argued that the proposal would update the function of the building, maintain its longevity, improve safety for occupiers, as well as offering better disability access for his son who has Down's syndrome. I understand that the use of the flat by the appellant's son is a future aspiration. At present, it is occupied by another person and appears to be functioning adequately as a residential unit. This part of the listed building is in optimum viable use. There is no suggestion that residential use would cease if these appeals were to fail.
13. Whilst the appellant is very familiar with his son's needs, it is unclear to me from the evidence provided as to how/why the existing access would be inadequate or could not be altered to accommodate his son's needs should he occupy the flat in the future. I am mindful of the United Nations Convention on the Rights of Persons with Disabilities. Strengthening the right to independent living is a public benefit. However, in this instance, it has not been demonstrated that the proposal is the only means of achieving this or would be likely to result in the least harmful impact upon the significance of the listed building or TCA. The public benefits of the proposal are insufficient to outweigh the harm that I have identified above and when balanced with the importance society also attaches to conserving and enhancing the historic environment there would be no violation of human rights.
14. Given all of the above, I find that the harm to the heritage interest (significance) of 25 and 26 Fore Street and the TCA would not be outweighed by any public benefits of the proposal. The proposal would fail to preserve the features of special architectural and historic interest which this listed building possesses and would detract from the character and appearance of the TCA. I therefore conclude that both appeals should not succeed.

Neil Pope

Inspector