



Appeal Decision

Site visit made on 9 September 2024

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/F0114/Y/24/3343773

Second Floor Flat, 14 Johnstone Street, Bathwick, Bath, Bath and North East Somerset BA2 4DH

- 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 Dr Carl-Philip Ahlbom against the decision of Bath and North East Somerset Council.
 - The application Ref is 23/03236/LBA.
 - The works proposed are: External alterations for the installation of replacement window.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the description of the works given in the application form is detailed, it is lengthy. I have, therefore, used the description of the proposed works given on the decision notice, which has also been used by the appellant in their appeal form.
3. The window subject of this appeal is the main window in the rear elevation of the second floor flat at 14 Johnstone Street. At the time of my visit, works had been undertaken to remove and replace the existing window frame and glazing. The replacement window appeared similar to that shown on the plans submitted with the application form and I have seen email correspondence in which the appellant says that they intend to replace the existing window with that shown on the plans. Nevertheless, the parties' evidence has been prepared on the basis of proposed works, rather than works that have already been carried out. I will, therefore, determine the appeal on the same basis. As such, where I refer to the 'existing window', I mean the window proposed to be replaced, rather than the window I observed at the time of my site visit.
4. The documents submitted with the application form include reference to the repair of stone work around the outer edges of the window box. The appellant does not appear to be certain of the need for any works of repair to the stone work. However, they suggest that these works are 'part of the installation of the window on the outside of the property'. In view of this, if consent were granted, it would include consent for these works. For this reason the Council has included these repairs as part of the works proposed and I will do the same.

5. The appeal site is within the boundaries of the Bath World Heritage Site (WHS), and the Council say the terrace in Johnstone Street is a part of the Baldwin master plan for developing the Bathwick estate, of which Great Pulteney is prominent, and in its entirety a highly significant element of the WHS. Nevertheless, the WHS is not a matter referred to in the reason for refusal of the application subject of this appeal. The Council does not, therefore, have any concerns with regard to the effect of the works on the outstanding universal value of the WHS. Having regard to the evidence before me, as well as the scale and nature of the proposed works, I have no reason to conclude that the proposal would cause harm to the outstanding universal value of the WHS and, therefore, the significance of this designated heritage asset.

Main Issues

6. Having regard to the reason for refusal, the main issues in this appeal are:
- whether or not the proposal would preserve the Grade I listed building, 9-15 Johnstone Street, or any features of special architectural or historic interest which it possesses; and
 - whether or not the proposal would preserve or enhance the character or appearance of the Bath Conservation Area.

Reasons

Special Interest and Significance

7. The listing description (list entry number 1395920) dates the Georgian terrace of 6 houses from between 1794 and 1801, with it incorporating late 19th and 20th century alterations. The special interest and significance of the Grade I listed building is largely derived from its historic and architectural interests.
8. Pertinent to the appeal, fenestration is a key feature of the listed building and the appeal property as part of it. In these regards, whilst the building's front elevation demonstrates polite uniformity in its fenestration, its rear elevation displays more variety in the size and glazing patterns of the windows. That said, the majority of units on the rear façade appear to be of traditional materials, form and design, namely painted timber and multi-pane vertical sliding sashes, with slim glazing bars in a box frame. Some also appeared to be without horns.
9. Whilst there is disagreement as to the age of the existing window, there is no dispute that it is a replacement unit. The appellant suggests that the rear of the building, including the window in question, was bomb damaged during the Second World War and that the existing window is the result of the repairs. This is not disputed by the Council. Furthermore, the images submitted attest to the decay and deterioration of the existing window which, if left unchecked, would have the potential to adversely affect the historic fabric of the building.
10. Notwithstanding this, from the submitted evidence and my observations on site, the painted timber, single-glazed, multi-paned (eight over eight) and vertical sliding sash attributes of the existing window very likely emulate what would have been the property's historic fenestration. The only contentious details are the thickness and profile of the glazing bars and the presence of horns on the sashes. For these reasons, whilst the fabric of the window may

be of negligible historic interest, the window's sliding sash form and glazing pattern contribute to the architectural authenticity of the asset, albeit that being slightly diminished by elements of its detailed design.

11. With regard to the Bath Conservation Area (BCA), the Council's Draft Bathwick Character Appraisal, dated November 2015 (CA) highlights its historical, architectural and archaeological interest. Of relevance to the appeal, the CA identifies the well-proportioned and grand Georgian terraces within the Bathwick area, which are also prevalent in the wider BCA. The appeal site is within an area described as having a grand urban scale and the listed building, of which the appeal property is part, is a fine example of a grand Georgian terrace. The CA refers to architectural quality, detailing and materials, of buildings within the BCA, which I would say are of note on the listed building subject of this appeal. For these reasons the appeal site and the terrace row within which it sits make a positive contribution to the special interest and significance of the BCA heritage asset.

The Effect of the Proposal

12. Paragraph 205 of the Framework informs 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. This paragraph also makes clear that, the more important the asset, the greater the weight should be. In this respect, I am mindful of the building's Grade I listed status. Paragraph 206 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
13. As the Council say that the window dates from the late 20th Century, the suggestion is that it was installed after the building was listed. However, there is no suggestion that the existing window amounts to unauthorised works. Even if installed after the listing, it has not been suggested that I have no regard to the existing window in my determination of the appeal and in the exercise of the duty imposed on me by reason of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 1990 Act), which requires that I have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.
14. The appellant's main focus was to replicate the window that they say was present in the property at the time the building was listed, and I note their efforts to achieve this. The appellant highlights elements of the design of the proposed replacement, including 'ovolo and fillet glazing bars with horns' which they say match the existing window. The appellant suggests that the 'replacement of the window will have a neutral impact on the aesthetic value of the building as the style and detailing will remain the same as the existing'.
15. Although it may have been suggested that the appellant has failed to explore the options for the repair of the existing window, the Council does not object to the replacement of it with an appropriate alternative. In this regard, I note that there is no objection to the replication of the 8 over 8 panes within the proposed replacement window. Nor is there any objection to the use of individual panes set within glazing bars, or the principle of slimline double-glazed units.

16. As for other elements of the window's design, the Council suggest that, rather than replicating the existing window, the replacement window should be in keeping with a window appropriate to the period of the building. It is the presence of horns and the thickness and profile of the glazing bars that are the focus of the Council's concerns. It is suggested that these are not authentic in a building of this age.
17. I have had regard to the guidance that has been drawn to my attention on the replacement of windows in heritage assets. In circumstances where the existing window is considered to diminish the significance of the listed building, Historic England advice is that 'the new window should be designed to be in keeping with the period and architectural style of the building'¹. With this in mind, the CA states that Georgian sash windows 'were purely rectangular with no 'horns' and glazing bar sections became remarkably thin as the 18th century drew to a close. With the introduction of plate glass in the mid-19th century, the heavier glass required correspondingly heavier weights and 'horns' to strengthen the rail/stile joint on each sash to deal with the additional stress'.
18. Whilst I note the appellant's claims that the building might have historically had ovolo and fillet glazing bars, the evidence before me indicates that this is unlikely. The evidence also indicates that the design of a window in a building of this age is unlikely to have included horns. However, in order to determine whether or not the replacement window would preserve the special interest of the listed building and have an acceptable impact on its significance, I must have regard to what it will replace.
19. I have, however, been provided with limited details of the existing window in order to make an informed comparison with what is proposed. The Council say that the cross section of the glazing bar submitted with the appeal 'shows an increased thickness'. It is not, however, clear whether this comparison is with the glazing bars of the existing window or the likely historic window.
20. The photographs submitted show the existing window with glazing bars that have a profile that compares in its form with the glazing bars shown on the submitted details. If the thickness of the glazing bars of the proposed window compares to those of the existing, I have some difficulty in concluding that this element of the works would not preserve the special interest of the building.
21. As for the presence of horns in the design, the photographs submitted shows these on the existing window. I note, however, that the shape of the existing horns is simple. In contrast to this the shape of the horns on the proposed window is more elaborate. This would add detail to the window that would move even further away from an authentic design and would not, therefore, conserve the heritage asset in a manner appropriate to its significance.
22. As for the stonework repair around the window, I can only agree with the Council. Without any indication of the extent of repair required, I am unable to conclude on the effect of these works on the special interest and significance of the listed building.
23. The design of the proposed window may well have been deliberate in its attempt to be in keeping with others in this elevation of the building. However, replicating detail in the window's design that would be a move away from what

¹ Section 5.2 of the Historic England: Traditional Windows - Their Care, Repair and Upgrading, published February 2017.

would be authentic to the age of the building would not justify the harm I have identified above.

24. I have had regard to the other decisions of the Council that have been drawn to my attention. In particular, the suggestion that in other properties the Council has approved windows with horns and glazing bars of the thickness necessary to support double glazed units. I note that the Council's own guidance supports the use of slim profile double glazed units in certain circumstances, including where existing windows are modern or where the existing windows are beyond feasible repair. This might well have supported the replacement windows in those cases referred to and might also have supported the proposal before me. However, I have concluded that the window proposed includes elements that would not preserve the building's special interest, having regard to the particular circumstances of the case before me. The other cases do not change this conclusion, particularly as I am unable to make an informed comparison with the proposal before me, without more information on the particular circumstances of those other cases.
25. For the reasons given above, I can only conclude that the proposal would not preserve the building or any features of special architectural or historic interest which it possesses and would cause harm to the significance of the heritage asset. I acknowledge that my findings are, in part, with regard to fine elements of the proposed window's design. The cases for and against the proposal are also finely balanced. Nevertheless, I am mindful of the advice in paragraph 205 of the Framework that, when attributing weight to the conservation of a heritage asset, the more important the asset, the greater the weight should be. As a Grade I listed building, it is a designated heritage asset of the highest significance and the weight I have attributed to its conservation reflects this.
26. Whilst I note that the reason for refusal of the application refers to the effect of the proposal on the character and appearance of the BCA, there is little elaboration in the Council's case to highlight the harm it says would be caused to this heritage asset and its significance. Having regard to the scale of the proposed works and that my objections to it are with regard to the finer detail of the proposal, I cannot conclude that it would fail to preserve or enhance the character and appearance of the BCA as a whole and, therefore, its significance. In this respect, there would be no conflict with the statutory presumption set out in section 72(1) of the 1990 Act. However, a lack of harm in this regard weighs neither for nor against the appeal.

Public Benefits and Heritage Balance

27. Whilst I have not identified any harm to the significance of the BCA, I do not conclude the same with regard to the Grade I listed building, 9-15 Johnstone Street. Due to the nature and extent of the works proposed, I find the harm caused to the significance of the heritage asset would be less than substantial, but nevertheless of considerable importance and weight. In these circumstances, paragraph 208 of the Framework informs that, where a development proposal will lead to 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.

28. The appellant highlights the energy efficiency benefits of the proposed window, which would no doubt result from its bespoke fit and the slim line double glazed units. In this regard I am mindful of the significant weight that should be given to the need to support energy efficiency improvements to existing buildings, in accordance with paragraph 164 of the Framework. This would be a clear benefit to the proposal that adds significant weight in its favour. Added to this are the benefits that would result from improvements to safety. I also acknowledge that the works would improve the protection of the building against the elements, which would be of benefit to the building's conservation. Having regard to the scale of the proposed works, I would also add limited weight to the economic benefits resulting from the installation of the window.
29. Whilst I acknowledge the public benefits above, I have been given no reason to find that these would not be realised with a window of a more appropriate design. In particular, I cannot be satisfied that the presence of horns on the window, particularly those proposed, are needed in order to achieve any of the benefits highlighted. Accordingly, I cannot be satisfied that the proposal would secure the listed building's optimum viable use.
30. For the reasons given above the weight I attribute to the public benefits that would accrue from the proposal would not outweigh the considerable importance and weight that the identified harm to the significance of this Grade I listed building carries. Accordingly, I conclude that the proposal would fail to preserve the listed building and any features of architectural or historic interest which it possesses. The proposal would, therefore, cause harm to the significance of the heritage asset. Having regard to the weight I should attribute to the conservation of the Grade I listed building, I am not satisfied that there is any clear and convincing justification for this harm.
31. Listed building appeals are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Additionally, section 16(2) of the Act does not require the decision maker to have regard to the development plan when determining applications and appeals for listed building consent. Nevertheless, I note that the Council refers to Policy HE1 (Historic Environment) of the Bath and North East Somerset Local Plan, Core Strategy and Placemaking Plan, Adopted July 2017. I can only agree that the proposal would fail to comply with this Policy, which emphasises the duty to preserve or enhance the significance of heritage assets and requires that any harm identified is fully justified.

Conclusion

32. For the reasons given above the appeal should be dismissed.

J Moss

INSPECTOR