



Appeal Decision

Site visit made on 4 January 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/Z4718/F/22/3303079

64 Bradford Road, Huddersfield HD1 6JE

- 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 Mrs Angela Parker against a listed building enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 21 June 2022.
- The contravention of listed building control alleged in the notice is an alteration to the building consisting of the removal of timber windows, and the installation of replacement UPVC windows on the front and rear elevations.
- The requirements of the notice are:
 - a) Remove the UPVC windows and install timber windows with a style, design, glazing and to match the timber windows that existed prior to the unlawful works being carried out.
- The period for compliance with the requirements is 90 days.
- The appeal is made on the grounds set out in section 39(1)(a), (e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. 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 PLBCAA).

The appeal on ground (a)

2. The ground of appeal is that the building is not of special architectural or historic interest and implicitly attacks the listing of the building. Effectively, it constitutes an application to the Secretary of State to remove the building from the statutory list by virtue of the power set out in section 41(6)(c) of the PLBCAA. The Act indicates that the time at which this question is to be considered is the time before the allegation the subject of the LBEN was carried out, rather than the date when the LBEN was issued.
3. The Grade II listed building the subject of the current appeal was first listed in September 1978. It is a two storey mid-terraced residential property within a mixed commercial and residential area. The appeal building was constructed in the mid-nineteenth century of ashlar with a pitched slate roof. It has a moulded eaves cornice and before the alterations took place had two ranges of sash windows. The front door has Tuscan pilasters, an entablature and blocking course. The ground floor has a canted bay and formerly had sashes

with moulded surrounds, moulded cornice and blocking course. The passage entrance has a hollow chamfered surround.

4. The appellant contends that the building should not be listed because it does not have historical and architectural details that can be destroyed, suggesting it should no longer be considered to be a listed building of special architectural or historic interest.
5. The general principles for deciding whether or not a building is of special architectural or historic interest are set out in 'Principles of Selection for Listed Buildings'. Among other considerations, to be of architectural interest a building is to be of importance in its design, decoration or craftsmanship. Special interest may also apply to particularly significant examples of building types or techniques. For historic interest a building must illustrate important aspects of the nation's history and / or have closely substantiated associations with nationally important individuals, groups or events.
6. The Council considers that the building meets the listed building criteria and the LBEN was served in order to uphold the quality of the building. There is insufficient evidence before me to conclude that the building no longer meets the criteria for listed buildings and, furthermore, I am not aware that there was an application to de-list the building before the LBEN was served. The building is of individual merit and has a number of important architectural features which remain in situ such as the moulded eaves cornice, arrangement of windows on the front and rear elevations, front door Tuscan pilaster, entablature and blocking course as well as the ground floor canted bay on the front elevation with moulded detailing. Consequently, it cannot be reasonably argued that the building does not have architectural or historical features that can be destroyed. Instead, it retains important features that exhibit the quality of the building from both historical and architectural perspectives.
7. As such, I am unconvinced that the building is not of special interest or that it should be de-listed. On that basis the appeal on ground (a) fails.

The appeal on ground (e)

8. The ground of appeal is that listed building consent ought to be granted for the works and therefore the main issue is the effect on the special architectural and historic interest of the Grade II listed building.
9. Section 16(2) of the Act requires the decision-maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses.
10. Policy LP35 of the Kirklees Local Plan Strategy and Policies adopted February 2019 (the LP) states that proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. Where there is likely to be substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm or meet a set of specific criteria.
11. As set out above, the appeal building dates back to the mid-nineteenth century and it retains many of its original historical and architectural features. It remains a good example of a mid-eighteenth century vernacular terraced

house using local stone with some traditional methods and features. It is important to recognise that the significance of a heritage asset is the sum total of its heritage values and historic windows are normally of such significance that every effort should be made to conserve them, as most historic windows will illustrate to varying degrees the materials, technology, craftsmanship and architectural style of the period in which the building was built. The evidence before me shows that the replaced timber windows contributed to the character of the building and added to its interest through the use of traditional timber frames and maintained the aesthetic value of the heritage asset.

12. The appellant argues that the replacement UPVC windows have not affected the appearance of the building. However, standard UPVC frames have been used. This is harmful to the character and appearance of the listed building in terms of the windows themselves and the method of installation. Therefore, the plastic replacement windows are harmful to the special architectural and historic interest of the building.
13. Paragraph 193 of the Framework advises that when considering the effect of works on the significance of designated heritage assets great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration of those assets. Given the degree of harm to the windows which are important features relating to the materials, technology and craftsmanship and architectural style of the building's period, I find the harm to be less than substantial but nevertheless of considerable importance and weight.
14. Under these circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the works. The appellant is of the opinion that the works that have been carried out would be beneficial because they would make the building safer, secure, more energy efficient and provides better sound proofing. There is no evidence that these could not have been achieved by other means. In any case, these are private, rather than a public, benefits.
15. Therefore, given the above, and in the absence of any clearly defined public benefit, I conclude that the works have a harmful effect on the special architectural and historic interest of the listed building. This would fail to satisfy the requirements of the Act, the Framework and would conflict with Policy LP35 of the LP.
16. I have taken account of the appellant's comments that she did not realise that consent was required and that it would be expensive to replace the UPVC windows that have been installed. However, in this case these considerations do not outweigh the harmful effect I have identified, above.

The appeal on ground (i)

17. The ground of appeal is that the steps required for the purpose of restoring the character of the building to its former state would not serve that purpose. With regard to the windows the Council is seeking to reinstate the timber windows with a style, design, glazing and to match the timber ones that previously existed. This would serve the intended purpose of the LBEN of restoring the character of the building to its former state and therefore the appeal on ground (i) fails.

Formal Decision

18. I dismiss the appeal and uphold the listed building enforcement notice.

A A Phillips

INSPECTOR