



The Planning Inspectorate

Appeal Decision

Site visit made on 18 October 2021

by **Thomas Shields DipURP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st December 2021

Appeal A: APP/V2255/F/21/3272985

22 Ospringe Street, Faversham, Kent, ME13 8TL

- 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 Mr Kevin Granger against a listed building enforcement notice issued by the Swale Borough Council.
- The listed building enforcement notice was issued on 11 March 2021.
- The contravention of listed building control alleged in the notice is, without listed building consent, the insertion of two rooflights to the catslide roof of the property.
- The requirements of the notice are:
 - i) Remove the western-most of the two roof lights that have been inserted into the catslide roof of the property.
 - ii) Reinstate the roof tiles and associated under felting (or matching equivalents) which were in place prior to the insertion of the western-most roof light.
- The period for compliance with the requirements is 3 months.
- The appeal is made on ground (a) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).

Appeal B: APP/V2255/Y/21/3272666

22 Ospringe Street, Faversham, Kent, ME13 8TL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Kevin Granger against the decision of the Swale Borough Council.
- The application Ref 20/505409/LBC, dated 15 November 2020, was refused by notice dated 25 January 2021.
- The works proposed are insertion of replacement/new windows, move rear door, 2 no. rear roof lights to cat slide roof. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding (works completed).

Decisions

1. **Appeal A** is dismissed and the listed building enforcement notice is upheld.
2. **Appeal B** is allowed in part and listed building consent is granted for insertion of replacement/new windows, move rear door, 1 no. roof light to rear cat slide roof over first floor bathroom. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding, at 22 Ospringe Street, Faversham, Kent, ME13 8TL, in accordance with the terms of the application Ref 20/505409/LBC, dated 15 November 2020 and the plans submitted with it, but otherwise the appeal is dismissed and listed building consent is refused for retention of the western-most roof light to the rear cat slide roof over first floor bedroom as shown on the application plans.

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Background and Preliminary Matters

3. Issues and considerations in the two appeals are interlinked and relate to the same property, and the main parties have submitted their evidence to jointly address both appeals. I have therefore dealt with both appeals together.
4. During my inspection I saw that a black circular vent pipe had been inserted adjacent the western-most rooflight window, projecting vertically through and above the slope of the rear catslide roof. This vent pipe is not shown on the refused application drawings. For clarity, my decision relates only to the works and drawings submitted as part of application Ref 20/505409/LBC. The vent pipe does not therefore form any part of my consideration of the appeals.

Appeal A, ground (a)

5. An appeal on ground (a) is that the building is not of special architectural or historic interest.
6. There is no dispute that the building is a Grade II listed building. Thus, for this ground of appeal to be successful, it must be shown that the building no longer merits its listed status. The relevant point in time for making such an assessment is immediately prior to when the works were carried out.
7. The appellant's supporting evidence is contained within his appeal statement, and I have also reviewed arguments and comments in his submitted copies of correspondence at various times between the Council and himself. No detailed historic building assessment has been submitted. Rather than relating to ground (a) his evidence mostly refers to matters relevant to an appeal on ground (e), that listed building consent ought to be granted for the works subject of the notice. However, the merits of the works carried out are dealt with in Appeal B.
8. The Grade II listed building dates from the C17th and comprises both 20 and 22 Ospringe Street. First listed in 1950, it is described in the listing as being constructed in 2 storeys with attics with 1 hipped dormer, tiled roof and painted brick with two string courses and with casement windows. The ground floor modern shopfront and fascia, described in the listing at No. 20, has since been removed and replaced with a more sympathetic elevation in painted brick with sash windows to match those at first floor. Along with the historic internal features and layout of the building, the tiled roofs across the whole of Nos. 20 and 22 are also substantial physical elements, intrinsically important to the overall character and value of the listed building as one of special architectural and historic interest.
9. The appellant states that the western-most roof light in the rear catslide roof, required to be removed by the notice (hereafter the "appeal window"), has been inserted into an infill constructed around the middle of the C20th. However, it is not clear to me whether that was before or after listing in 1950. Nevertheless, as is often the case with listed buildings, they can evolve over time resulting from alterations made by successive generations of owners. Such changes and alterations can also be capable of contributing to the value of a listed building by providing the evidence of its evolution. As such, in terms of the overall value of the listed building, the portion of the rear catslide roof referred to needs to be regarded in the context of the whole roofscape, and moreover to the whole of the listed building, rather than considered in isolation.

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10. Having regard to all of the evidence before me, and from my own observations, I am satisfied that the internal and external historic and architectural features of No. 22 (particularly its external domain) remains an integral part of the value of the listed building as a whole (Nos. 20 and 22) and thus it remains a building of special architectural and historic interest. As such, I do not consider that it ought to be removed from the statutory list.
11. The appeal on ground (a) therefore fails.

Appeal B

Main Issue

12. The main issue is the effect of the works on the special architectural and historic interest of the listed building 20 and 22 Ospringe Street.

Reasons

13. Section 16(2) PLBCAA requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses. Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Additionally, I have taken into account Policies CP8, DM14, DM32 and DM33 of the Swale Borough Local Plan (2017) insofar as they require development to sustain the historic environment and preserve the special architectural or historic interest of listed buildings. I have also taken into account the provisions of the Framework¹ which is also a material consideration.
14. The works carried out subject of this appeal are described as: *insertion of replacement/new windows, move rear door, 2 no. rear roof lights to cat slide roof. Demolition and insertion of replacement staircases, demolition and erection of new internal walls, reinstate inglenook fireplace, remove rear cement render with replacement timber cladding.* They are also shown in more detail in the drawings submitted with the application.
15. Other than the appeal window the Council do not object to the remainder of the works and, having regard to all the evidence before me and from my own observations, I have no reason to disagree. The only contentious issue therefore between the parties is the appeal window.
16. I have already described and set out the value of the listed building in Appeal A, and in particular that the tiled roofs across the whole of Nos. 20 and 22, which includes the catslide roof to the rear, are substantial physical elements of the listed building, intrinsically important to its overall significance as one of special architectural and historic interest. As such, the listed building including its catslide roof also contributes greatly to the character and appearance of the Ospringe Conservation Area (OCA).
17. Given the positive contribution of the rear catslide roof to the heritage assets I have described, I consider that any changes to the previously uninterrupted roof slope should be kept to a minimum in order that the significance of the heritage assets are preserved as far as possible.
18. In this regard I find the overtly modern form and appearance of the appeal window diminishes the aesthetic value of the vernacular design and materials of

¹ National Planning Policy Framework (2021)

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the traditional roofscape. While the matching adjacent bathroom rooflight is by itself similarly harmful, I accept that as part of the wider scheme of works the harm is outweighed by public benefits in the form of achieving a viable habitable dwellinghouse suitable for modern living standards, thereby securing the viability and longevity of the listed building. However, the appeal window in conjunction with the bathroom rooflight results in a prominent and noticeable harmful cluttering of modernising interventions into this part of the roof. This overall harm to the significance of the listed building, highly visible from Grove Place, also fails to preserve or enhance the character or appearance of the OCA.

19. The appellant refers to other rooflights in nearby buildings. However, some of those are not so sensitive to alterations as is this particular listed building. Moreover, the existence of those does make acceptable or mitigate the harm I have previously described to this listed building.
20. I also note that the parties have differing recollections and understandings of what was said about the appeal window during meetings and in correspondence. However, such misunderstanding could have been avoided if the necessary listed building consent had first been sought and granted before installing the appeal window. The appellant also argues that there are no realistic alternatives for lighting the room. However, there is no detailed evidence before me of potential alternatives/structural surveys to demonstrate that such alternatives were thoroughly assessed as being unviable or not exempt from Building Regulations requirements. Even without an alternative there is no convincing evidence before me to demonstrate that the residential use of the building would not be viable.

Conclusion

21. Overall, I find that the scheme of works as a whole (not including the appeal window) are acceptable resulting in a viable habitable dwellinghouse suitable for modern living standards, and thereby securing the viability and longevity of the listed building, that also being a substantial public benefit. I will therefore grant consent for those works.
22. However, for reasons set out previously, the appeal window results in harm to the significance of the listed building and to the character and appearance of the Ospringe Conservation Area. Although serious, in this case the harm to the heritage assets would be *less than substantial* within the meaning of the Framework. Paragraph 202 of the Framework requires the harm to be weighed against any public benefits. In this regard there is no convincing evidence before me to demonstrate the appeal window brings about any further public benefits than would already be the case from the remainder of the scheme of works. Thus the harm is not outweighed by public benefits. I accept that its retention would be more desirable and convenient to occupiers, however that would be a private benefit rather than a public one. I will therefore refuse consent for the retention of the appeal window.
23. For all these reasons the appeal succeeds, limited to the extent set out above.

Thomas Shields

INSPECTOR