
Appeal Decision

Site visit made on 10 March 2014

by Keith Turner LLB(Hons) DipArch(Dist) RIBA MRTPI

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

Decision date: 17 March 2014

Appeal Ref: APP/C2741/E/13/2209500
Penn House, 38 St Mary's, York YO30 7DD

- 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 Mr David Coidan against the decision of City of York Council.
 - The application Ref 13/02988/LBC, dated 29 August 2013, was refused by notice dated 28 October 2013.
 - The works proposed are cleaning of external elevations of house and low ashlar walls and piers to railing enclosure to Bootham and St Mary's basement/street frontage.
-

Decision

1. The appeal is allowed and listed building consent is granted for cleaning of external elevations of house and low ashlar walls and piers to railing enclosure to Bootham and St Mary's basement/street frontage at Penn House, 38 St Mary's, York YO30 7DD in accordance with the terms of the application Ref 13/02988/LBC, dated 29 August 2013 and the plans submitted with it subject to the following conditions:
 - 1) The works hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The works hereby permitted shall be carried out in accordance with Plan C-PH-150-P4 dated stamped 30 August 2013 and using the DOFF Super Heated Steam System in accordance with the information submitted within the documents attached to the grounds of appeal.
-

Procedural Matters

2. The Planning Policy Practice Guidance came into force on 6 March 2014. Consequently, the parties may not have taken it into account in their representations. I have carefully considered whether an opportunity should be given for comments to be made in the light of this. However, I have concluded that the Guidance has no bearing upon the issues raised in this appeal and such a course is, therefore, unnecessary.

Reasons

3. The appeal premises comprise a Grade II listed building and are, therefore, also a designated heritage asset. In considering whether to grant consent for works which affect the character of a listed building or its setting, special regard is to be had to the desirability of preserving the building or its setting or

any features of special architectural or historic interest which it possesses. In addition the building lies within Conservation Area No.1, the Central Historic Core. It is necessary, therefore, to have special regard to the desirability of preserving or enhancing the character or appearance of the surroundings in the exercise of any planning functions¹. These statutory duties are reflected in Policies HE4 and HE5 of the Local Plan².

4. The NPPF³, which is a material consideration of considerable weight, indicates that the significance of any heritage asset affected by proposals should be identified and assessed taking account of the available evidence and any necessary expertise. In addition, great weight should be given to the asset's conservation.
5. The appeal premises have been the subject of internal works to adapt them to form a single dwelling with two apartments. Those works are largely completed and appear to have been executed to a good standard. The Appellant now wishes to address the exterior of the building by cleaning the masonry and brickwork to restore its former colour. This proposal was originally part of the application for the wider alterations but was removed at the request of the Council.
6. The first question to be addressed is whether the cleaning of masonry constitutes works to the building which affect its character as a building of special architectural or historic interest. There is no doubt that removing the dirt and grime of 150 years or more will alter the appearance of the building by restoring, in some measure, the original lighter colours of the materials. Whilst that change of appearance would lose the present character with its patina of age, it would restore the original character of the building more closely than its present state.
7. Painting of the exterior of a listed building or repainting in a different colour has long been held to constitute work requiring listed building consent if the change brought about imparts a different character. Since, in this case, cleaning would bring about a change in colour from an overall grey hue to something more akin to buff and sandstone, I consider that the works can be regarded as materially affecting the character of the building and therefore listed building consent is required.
8. The Justification Statement submitted as appendix 1 to the grounds of appeal by the Appellant provides relevant information about the significance of the heritage asset. It demonstrates the historical link to the Rowntree family and identifies four main phases in the building's history. I note particularly that the original fabric of 1852 survives substantially intact. Also the changes carried out in about 1862 explain some of the current features of the building. However, of particular interest is Section 2 of the Statement which explains the significance and relevance of the materials used to the character and context of the building.
9. All three visible elevations of Penn House are constructed using good quality white brick laid in accurate Flemish bond with stone dressings. This of itself indicates quality, but details also reveal this quality was extended to lesser

¹ Ss 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended

² City of York Draft Local Plan Incorporating 4th set of changes Development Control Local Plan 2005

³ National Planning Policy Framework – April 2012

parts of the house. In addition, the choice of white brick with stone was indicative of a more sophisticated and affluent client or patron. It was also a reference back to the fashion for matching brick and stone colours and a move away from the use of stucco. These matters are not disputed by the Council, and they indicate that the building was, when erected, meant to be seen as important in the locality and refined in its materials, style and concept.

10. The Appellant contends that the accumulation of grime over the building's exterior has diminished its individual character and, having regard to the above context, I would agree with that conclusion. The uniform grey colour reduces the building's visual contribution to the street scene and also diminishes its character, which was intended to be different from other buildings nearby. Whilst I understand and accept the Council's view that the patina of age can often be an integral part of the building's history, and in this case may have mellowed it in relation to its surroundings, that was not the intent of the original design or character of the building.
11. The Council have also expressed concerns about the likelihood that granting consent in this case could set a precedent for other buildings in the area to be cleaned. That is understandable given that the Appellant has sought to argue support for his case by referring to other examples of buildings having been cleaned along Bootham and elsewhere. However, I consider that this kind of work must be assessed upon its own facts and circumstances. For this reason I agree with the Council that little weight should be given to other examples nearby or to the possibility of setting a precedent. In reaching this conclusion I have had regard to the fact that only one of the examples cited by the Appellant has been granted consent by the Council where the buildings are listed, and not all the buildings are listed.
12. In addition to seeking visual improvement of the building through cleaning it, the Appellant also wishes to do so in order to better reveal external defects in the masonry and brickwork and to enable them to be properly repaired using materials of the correct kind and colours. The Council consider the case for repairs to be vague and imprecise. To a degree I accept there is a lack of detail, but that may be because further investigation is required if and when the external fabric can be more clearly seen. Whilst I also accept the Council's assertion that the case for repairs is not compelling in terms of justifying the cleaning of the building, I do find it persuasive in this case for two reasons. First, there is visual evidence of cracking in the north-east corner of the building. That and other less serious defects are apparent such as pointing to the portico. Second, any re-pointing or insertion of new bricks or stone necessary would lead to a dilemma if the building is not cleaned. What should the new materials match with, the weathered grey or the original white brick and stone? This situation has already led to some repair works being executed in grey which may contrast significantly with the original colours, but also does not harmonise well with the weathered materials. Consequently, I find that the issue of repairs adds significant weight to the case in favour of cleaning the building.
13. The one primary concern which often counts against such intervention is the likelihood of damage to the surfaces of the materials which cleaning may cause. A number of methods are available, but the one proposed in this case comprises the use of a weak acid solution together with steam washing. It

utilises lower water pressure than other systems and a higher temperature which, it is claimed, results in less damage to the surfaces treated.

14. The Appellant has submitted substantial evidence about this methodology in the form of a report on research done at Leeds University⁴. That indicates, by observation of scanning electron microscopy that the solution used to clean the stone does not damage it when used at low concentrations, though there is some evidence of etching at high concentrations. It also states that the cleaning process removes some interstitial cement from the stone, but any chemical attack on the sand grains themselves appears minimal, and the process removes less than 200microns of material, which is less than one grain's depth.
15. Whilst I note the Council's observation that this research is limited to cleaning of stone, there is no evidence before me to suggest that it would be inappropriate to apply its findings to brickwork. In fact, there is evidence, in the form of nearby buildings which have been cleaned using this method, that it is not inappropriate. In the absence of any substantial evidence to the contrary I must accept that to be correct. Accordingly, there is nothing substantive to indicate likely harm arising to the fabric of the listed building by the proposed works.
16. Another point of concern raised by the Council relates to the impact upon the surroundings which comprises a conservation area and the settings of other listed buildings. The Council rightly points out that the development of historic houses and their relationship to their surroundings is a dynamic process. It is suggested that, if cleaned, the appeal building would be viewed in an approximation of its original state against buildings that have weathered over a period of 160 years.
17. The building might become more visually prominent in relation to its surroundings if cleaned, but that would not be out of character with the original design intention. Furthermore, some buildings in the vicinity have already been cleaned and they do not stand out in stark contrast because, whilst the near surroundings have a degree of unity in building style, the street scene is by no means uniform in character. The buildings are individual in detail and character. Consequently, I do not consider that cleaning of the appeal premises would be harmful to the character or appearance of the surroundings or the setting of nearby listed buildings.
18. The Council also suggests that returning the building to the original conception would be highly subjective and unrealistic. Whilst it is generally accepted that works undertaken during the life of a listed building add to its history and character, I do not consider that accumulation of dirt and soot is necessarily comparable, and in this case there is no substantial evidence to support the Council's assertion that the result would be subjective or unrealistic.
19. For the above reasons the appeal succeeds. The Council proposed that 3 conditions should be imposed. The first is the statutory time limit and the second requires specific reference to the application plans. Both are necessary and acceptable for purposes of precision and certainty. The third proposed condition would require a detailed method statement outlining the areas to be

⁴ An Electron Microscope Study into the Effects of Stone Cleaning by WGL Stoneclean by Dr Leon Black, June 2010

cleaned, the chemicals to be used, ancillary works such as scaffolding and a timetable. The Appellant would accept a timescale being agreed, but considers the remainder of the information requested is available in the documents submitted for the appeal.

20. I do not consider it necessary for a method statement or details of chemicals to be used to be the subject of a condition, but in order to achieve clarity and certainty, I shall impose a condition specifying the proprietary system to be used since my decision is based upon the evidence submitted in relation to that system. The extent of the works is defined in sufficient detail on the application drawing. Ancillary works such as scaffolding should not physically affect the building and if they are found to do so then the Council has powers to address that. I consider that the duration of the works will be moderated by cost considerations and no further control is therefore likely to be necessary, and the statutory period will limit when the works may be carried out.

Keith Turner

Inspector

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer

Services Department:

Telephone: 0870 333 1181

Fax: 01793 414926

Textphone: 0800 015 0516

E-mail: customers@english-heritage.org.uk