

Planning Committee: 13 August 2024

Item Number: 9

Application No: [W 23 / 1109 LB](#)

Town/Parish Council: Leamington Spa
Case Officer: Lucy Shorthouse

Registration Date: 28/07/23

Expiry Date: 22/09/23

01926 456528 lucy.shorthouse@warwickdc.gov.uk

41 Portland Street, Leamington Spa, CV32 5EY

Form opening between bedroom and store at basement level together with the replacement of 6 existing windows on the front elevation and 5 existing windows on rear elevation with specialist slimlite timber sashes to match existing geometry. FOR Mr + Mrs Talbot FOR Mr + Mrs Talbot

This application is being presented to Committee due to a comment in support from the Town Council having been received, contrary to officers' recommendation.

RECOMMENDATION

That the application is recommended to be refused for the reason set out at the end of this report.

DETAILS OF THE DEVELOPMENT

The application seeks Listed Building Consent to create an internal opening in the basement between the store and bedroom and to the replace all existing windows serving this Grade II Listed Building with specialist slimlite double-glazed timber sashes to match existing geometry.

As part of their supporting documentation the applicant advises that the proposal is being brought forward predominantly to improve the energy efficiency of the property and to reduce carbon emissions and pollution within the surrounding area.

THE SITE AND ITS LOCATION

41 Portland Street is one of a pair of C1824-1836 dwellinghouses, with later alterations. The dwelling is characterised by brick with painted stucco front facade and Welsh slate roof. It is of 3 storeys with a basement.

The window pattern comprises a significant aspect of the listing, with attention paid to the sash windows and their sills. The bay window on the front elevation has likely been altered, as it does not match the neighbour's, however the sash windows in the upper floors are considered likely to be original. The house is located in the Leamington Spa Conservation Area.

PLANNING HISTORY

W/21/2159 and W/21/2160/LB – Internal alterations, replacement/refurbishment of windows and replacement of roof windows with dormers on rear elevation – **Refused** due to harm to a heritage asset from the loss of original historic windows.

W/22/0226 and W/22/0227/LB - Internal alterations and replacement of roof windows with dormers on rear elevation – Granted, following the amendment of previously proposed dormers to a pitched design, and the removal of double glazed windows from the plans.

W/22/1762 and W/22/1763/LB - Replacement windows with specialist slimlite timber sashes to match existing geometry – **Refused** due to harm to a heritage asset from the loss of historic windows. Previously approved dormers were not relevant to this case. **Appealed - Dismissed** at appeal, harm to the heritage asset outweighed any benefit identified

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- Guidance Documents
- Windows in Listed Buildings & Conservation Areas (Supplementary Planning Guidance)
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area
- NZCSPD – Net Zero Carbon Supplementary Planning Document (SPD)
- NZC4 - Existing Buildings

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council - support the proposal because of the reported improvement to energy efficiency in the property.

WDC Conservation - object on grounds of harm to a designated heritage asset.

Public Response - 4 comments in support, with the main points being raised that the proposed replacement windows will not harm the appearance of the heritage asset, while improving energy efficiency.

ASSESSMENT

Impact on heritage assets

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 explains that in considering whether to grant permission for developments affecting listed buildings or their setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 205 of the NPPF states 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. Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This is also reflected in Policy HE1 of the Local Plan.

Policy HE1 of the Warwick District Local Plan expects development proposals to have appropriate regard to the significance of designated heritage assets. Where any potential harm may be caused, the degree of harm must be weighed against any public benefits of the proposal.

The Council have also adopted historic buildings guidance entitled "Windows in Listed Buildings & Conservation Areas". This states that Listed Building Consent and Planning Permission will not be granted for the use of aluminium, plastic (uPVC) or non-traditional timber replacement windows in Listed Buildings or in unlisted buildings in Conservation Areas.

It then goes on to state that Listed Building Consent will not be granted for the use of double glazed units in Listed Buildings because the fine glazing bars that characterise historic windows are not available to support the thicker glass used in double glazed windows.

Additionally, the sandwiching effect of double glazing can distort the view of the window, and the integrity of the window is lost as an original feature.

The Conservation Officer has objected to the application, and is unable to support from a conservation perspective. The Officer notes the windows to the front are acknowledged to be likely original and these are considered to have a strong value and importance in terms of character and significance. Whilst the rear of the building is acknowledged as being less sensitive than the front face, it is still a historic elevation and therefore still contributes to the character and significance of the building.

It is considered that there will be a visual impact from the proposal and this is evident in the examples offered in the heritage statement, with the external appearance of the glazing bars being considered heavy with the spacer bar clearly visible. It is likely this will be the case with the proposed windows as the external putty moulding and the spacer bar sit beyond the width of the glazing bar. The glazing bars may also be the same thickness however they will appear stunted in length as they have been reduced by 10mm.

Since the submission of this application, the appeal decision for previous applications at this site for the same proposals (WDC ref. W/22/1762 & W/22/1763/LB, appeal ref. APP/T3725/W/23/3325844) was issued on 26th January. This appeal was dismissed. In the decision, the Inspector states, "whilst the proposed windows intend to replicate the geometry of all the existing windows, the proposed double-glazed units would inevitably be deeper in profile than a single pane of glass. When viewed obliquely, this would result in the glazing bars appearing to be of heavier profile than existing. The heaviness would be emphasised by the closeness of the glazing bars to each other, being separated only by small panes of glazing. As a consequence, given that the appeal building forms just one half of the listed building, the proposed windows would jarringly contrast with the existing windows in the other half of the listed pair. The largely symmetrical appearance of the listed building as a whole would be considerably reduced. Accordingly, the proposal would not preserve the listed building. It follows that the character and appearance of the Conservation Area would also be incrementally harmed. These harms would arise even if any of the other individual windows in the listed building were found to be not original."

The Conservation Officer has made additional comments on this application, reiterating the points made by the inspector in the appeal at this site, highlighting the importance of the fenestration, regardless of whether it is original or not. There is considered to be some panes of original glass to windows to the first floor of the front elevation, however it is noted that a large amount of the joinery has been subject to repair. As the Inspector notes however, this does not undermine its value nor the visual impact.

A further appeal within the district, appeal reference APP/T3725/Y/23/3328257, Oaks Farm, Farm Road, Kenilworth, Warwickshire CV8 1DX, issued 10th June 2024, was also dismissed in line with Officer recommendations in regards to the impact of double glazing. This further supports the above view. The appeal at Oaks Farm regards a listed building with primarily 20th century windows. The windows to the elevations bar the principal elevation had been replaced with 12mm slim line double glazing and the Inspector noted that "These concerns were realised to an extent when on site in viewing the windows that have already been replaced as part of the 2023 consent; and compounded by noting other details including the unduly prominent black spacer strip between the two panes of glass and high reflectivity of the glazing."

The Conservation Officer also draws attention to Points 14 and 15 of the Oaks Farm appeal, in which the Inspector states that any public benefits from the energy efficiency measures or investment in the building does not outweigh the harm identified. This position is equally strengthened by the Net Zero Carbon DPD, as it is recognised by the inspectors that the special characteristics of the heritage assets would not be conserved therefore the application does not conform to Policy NZC4.

Both appeals weighed the argument of sustainability against the impact on heritage and found that the harm to the heritage asset outweighed any benefit identified from a sustainability aspect, a view which is supported by Conservation Officers.

Site visits were undertaken by the Conservation Officer to review in-situ examples of the proposed windows in person within the local area, however this was to view casement windows of a larger glazing depth and so were not considered to be comparable, and to Bromsgrove to view similar windows that had been installed within a listed building.

It is worth noting that each heritage asset is assessed on its own merits. The site in Bromsgrove was a farmhouse which had non-original top hung and fixed windows and, having discussed with the current Conservation Officer at Bromsgrove, the policy in that District remains that double glazing is not suitable where Georgian sashes are in place due to the thickness of glazing bars required and the reflective nature. It was considered that the reflective nature of the glazing was apparent, with reflections clearly viewed in the glass, and the black spacer bars were evident. It is also considered that when these windows would be installed in a highly sensitive location, such as a terrace with Georgian sashes throughout the street, the visual impact would be even more apparent.

Therefore having reviewed images of these examples with the Principal Conservation Officer, Officers consider that the reflective nature of the windows is clearly evident, as well as the black spacer bars between the panes. This clearly identifies these windows as double glazed and the examples did not overcome Officer's concerns regarding the impact on the heritage asset.

Having regard to this Committee's duty under the Planning (Listed Building and Conservation Areas Act) 1990 to have special regard to the desirability of preserving heritage assets including any features of special architectural or historic interest which the asset possesses, the Conservation Officer's comments attract significant weight.

The proposed replacement of the existing windows, some of which are likely to be original would result in the loss of features of special architectural or historic interest.

In addition, their proposed replacement involving the introduction of modern double-glazed windows would impact upon the overall historic character of the Listed Building for example by creating visual distortion owing to the 'sandwiching' of two panes of glass and the additional thickness to the glass that results. Additionally, the external putty to the glazing bar would be wider, and the internal glazing bar is reduced by 10mm, which creates a significant visual difference. The spacers required by the double glazing would be visible even from street level. While the windows have been previously repaired, this does not diminish their historic significance or contribution to the Listed Building, given their prominence within the front elevation of the house.

It is therefore considered that the loss of the original historic windows and the visual impact of the double glazing would constitute significant harm to the historic character and integrity of the Listed Building to which significant weight must be attributed.

Sustainability

The recently adopted Net Zero Carbon DPD policy NZC4 advises that the sensitive retrofitting of energy efficiency measures and the appropriate use of micro-renewables in historic buildings, including listed buildings, will be encouraged, providing the special characteristics of the heritage assets are conserved in a manner appropriate for their significance.

In this particular case, the applicant has indicated that the proposed replacement windows are intended to improve the energy efficiency of the property; reduce carbon emissions and pollution within the surrounding area.

In dismissing the appeal at the site (APP/T3725/W/23/3325844) the Inspector says, "The energy efficiencies provided by the proposal would be a public benefit. However, the weight to be given to this is reduced by the availability of alternative measures, such as secondary glazing, heavy curtains and possibly shutters, all of which could provide a high level of insulation. Secondary glazing could be discreetly attached to the flat part of the architrave or to the staff bead, and has the benefits of being easily reversible, having simple mechanisms, and better environmental credentials, whilst retaining the historic fabric and not adversely impacting on the listed building's integrity. I appreciate that air source heat pumps require a host property to be well insulated. However, I am not persuaded that the margin of difference between the energy efficiency of the proposed double glazing and the potential alternative measures would be so substantial as to be determinative." The points raised remain relevant to this application.

Given the loss of original fabric proposed and the impact of the replacement windows on the character and significance of the Listed Building, it is not considered that the proposals comply with Policy NZC4 of the Net Zero Carbon DPD. This is because it is not considered that the proposals conserve the Listed Building in a manner appropriate to its significance.

Balancing of Sustainability and Heritage Issues

Paragraph 205 of the NPPF requires 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208 states 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.

In this case, the level of heritage harm is, using NPPF terminology, less than substantial. However, for the avoidance of doubt, in this particular case, the extent and nature of that harm is considered to be significant and carries significant weight.

As set out above, in the circumstances where there is less than substantial harm to a Heritage Asset, in considering proposals, that harm is required to be balanced with any public benefits of the proposal.

In this case, those public benefits comprise the sustainability and energy efficiency benefits associated with the replacement of the windows in the property which are to be balanced against the significant harm that is considered to result to the Listed Building arising from the loss of original features; the impact of the replacement features, as described above and the associated non-compliance with policies HE1 and NZC4.

Given the significant level of harm that has been identified to the Listed Building, this is not outweighed by the environmental benefits. It is noted that this conclusion is consistent with the approach taken by Inspectors in recent appeals in the District.

It is also considered that the manufacture of new windows as proposed may result in a higher carbon impact than the repair of the original single glazed windows as well as resulting in unacceptable harm to the Listed Building and its historic fabric.

In summary, significant harm to a heritage asset has been identified and this is not considered to be outweighed by any public benefit. Therefore the proposals fail to comply with Local Plan Policy HE1 and the Net Zero Carbon DPD.

SUMMARY

The proposals would result in the irreplaceable loss of significant original historic fabric of fine quality and detailing, causing irreversible harm to the integrity of the historic asset. The proposals are considered to result in unacceptable harm to the Listed Building and there are not considered to be any public benefits that are sufficient to outweigh the harm.

The proposals are therefore contrary to the policies referred to above and it is recommended Listed Building Consent is refused.

REFUSAL REASONS

- 1 Policy HE1 of the Warwick District Local Plan 2011-2029 and the NPPF state that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The Council have also produced guidance on windows in listed buildings.

In the opinion of the Local Planning Authority the proposal would cause less than substantial harm to the significance of the listed building and conservation area by reason of the loss of historic fabric in the form of the existing windows and their replacement with windows of a non-traditional design and appearance. No public benefits have been identified to outweigh this harm.

The development is thereby considered to be contrary to the
aforementioned policies.
