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Your Ref: ENF/2022/00131 + ENF/2022/00132
Our Ref: APP/Y3940/F/22/3308216
Further appeal references at foot of letter

31 August 2023

Dear Sir/Madam,

Planning (Listed Buildings and Conservation Areas) Act 1990
Appeals by Mr Mark Cottle, Mrs Sarah Cottle
Site Address: 12 & 14 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15
1QF

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Tracy Warry

Tracy Warry

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Linked cases: APP/Y3940/F/22/3308224



Appeal Decisions

Site visit made on 21 August 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal A Ref: APP/Y3940/F/22/3308216

14 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15 1QF

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mr Mark Cottle against a listed building enforcement notice issued by Wiltshire Council.
 - The enforcement notice, numbered ENF/2022/00131 & 00132, was issued on 7 September 2022.
 - The contravention of listed building control alleged in the notice is It appears to the Council that the works (the "Works") specified below have been executed to the Building and constitute unauthorised works in contravention of Section 9(1) of the Act: 1) Without listed building consent, the erection of a ventilation cowling on the Building (shown in the attached document entitled "Notice Photographs 1"). 2) Without listed building consent, the erection of two wooden screens attached to the Building (shown in the attached document entitled "Notice Photographs 2"). 3) Without listed building consent, the erection of closed-circuit television (CCTV) cameras, security type lights and a burglar alarm type box on the Building.
 - The requirements of the notice are 1) Remove the ventilation cowling from the Building and block-up the ventilation cowling opening with stonework matching exactly the existing surrounding stonework by tying-in and keying-in the stonework so that it blends seamlessly with the existing surrounding stonework and so that the colour, mix, finish and materials of the mortar used in the stonework match exactly the existing surrounding mortar. 2) Remove the two wooden screens from the Building. 3) Remove all closed-circuit television (CCTV) cameras, security type lights and the burglar alarm type box from the Building.
 - The period for compliance with the requirements is 4 months.
 - The appeal is made on the grounds set out in section 39(1)(a), (c), (e), (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal B Ref: APP/Y3940/F/22/3308224

12 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15 1QF

- A similar appeal is made by Mrs Sarah Cottle, but it also includes a ground (b) for the vent and cowling.
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Decisions

Appeal A – 3308216 and Appeal B - 3308224

1. It is directed that the listed building enforcement notice be corrected by deleting "*and a burglar alarm type box*" from allegation 3 and varied by deleting "*and block-up the ventilation cowling opening with stonework matching exactly the existing surrounding stonework by tying-in and keying-in the stonework so that it blends seamlessly with the existing surrounding stonework and so that the colour, mix, finish and materials of the mortar used in the stonework match exactly the existing surrounding mortar*" from requirement 1; and deleting requirement 3, replacing it with "*Remove the*

single white closed circuit television (CCTV) camera on the front façade of No14 and all security type lights from the building"; and by deleting "4 months" from the period for compliance and replacing it with "6 months". Subject to these corrections and variations, the appeals are dismissed the listed building enforcement notice is upheld, and 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 site

2. Budbury House is a large former industrial building that occupies a prominent position on top of the hillside above Bradford-on-Avon. The steep hill has been terraced and below Budbury House lies an area called Tory, filled with cottages and larger town houses accessed by narrow and steep lanes that are mostly pedestrian only. It is possible to wend ones way down to reach the town below. Budbury House has now been converted into three dwellings and the notice covers two of these, Nos 12 and 14.

The Appeal on Ground (a)

3. This ground is that the building is no longer worthy of listing. I should point out firstly that this is a difficult ground to argue and success depends on demonstrating that the building has ceased to have any value as a heritage asset. The appellant has provided considerable evidence concerning rebuilding or modern renovations to the building and the lack of any historic features, especially internally. That as maybe, but a simple glance at the building shows that it retains the form and simplicity of a typical large stone late-Georgian industrial building, of which there are many examples in the town. Bradford was originally an industrial mill town and much of its former heritage has survived, generally converted into dwellings, of which the appeal building is a good example. It retains the former pair of industrial shallow-arched entrances on the front elevation, albeit now filled-in to support domestic front doors, but retains the appearance of a converted industrial use.
4. The listing refers only to its exterior appearance, but of most importance it describes it as "*In a vitally important position overlooking the town. Budbury House forms an important group with all the listed buildings in Tory*". So it is clear it was primarily listed because of its position in the town generally and more specifically in relation to the area called Tory. This position remains unchanged, the building is still prominent and there is no alteration in its relationship to Tory, which is filled with listed buildings. Taking all this together there is nothing to suggest to me the building has ceased to have any heritage value and should be de-listed.

The Appeal on Ground (c)

5. This ground is that there has been no contravention of the Act. In other words the various items attached to the building do not affect its value as a heritage asset. The various items that concern the Council and which have been attached to the building are an alarm box, security light and camera on the side elevation of No12, a ventilation cowl, security camera and light on the front elevation of No12, a security camera and light on the front elevation of No14, a single fence panel dividing the front garden of Nos 14 from the end house called 'Budbury House' and a double fence panel dividing the front gardens of Nos14 and 12.

6. The front of the building is not accessible to the public as it stands on a private drive. The hillside below is so steep that views back towards the site are not really possible until one is down in the town and at that distance the items in question cannot be seen with the naked eye. However, the fact they are not readily visible to the public does not mean they have caused no harm to the listed building. They are readily visible to occupiers of the building and to the neighbours and anyone visiting the property.
7. The security lights are basic, modern lights that stand out as scruffy and wholly incongruous. They clearly have harmed the special architectural or historic interest of the building.
8. The security cameras are of two different designs. Two are small, black rectangles that are fitted to the lower frame of the windows. They are hard to see, even from close up, and have not displaced any historic fabric or features. I agree that they have not caused any harm. The third is a larger white unit, fastened to a block on a windowsill, which is much more noticeable and appears random and incongruous. It does cause harm.
9. The alarm box is a typical rectangular box, high up on the side elevation. The Act does not envisage that any modern additions to a listed building are harmful, only those that affect its character as a building of special architectural or historic interest. Discretely positioned alarm boxes are a feature of many listed buildings around the country and do not necessarily look out of place. I was shown many photographs of such buildings in the area that had alarm boxes which reinforces the sense they can be acceptable. In this case I find the box, although it is clearly a modern addition, unlike the lights and the white camera does not stand out, but is modest, subtle and fairly discrete, it does not therefore cause any harm.
10. The metal cowling on the front of the building is unusually large. The Council suggest an alternative location would be preferable, but the appellant argues the large duct was already in place when he moved in and is happy to redesign the cowl. This sort of ventilation is not unusual on converted buildings and the appellant has reported considerable concerns with condensation in the kitchen area the duct is designed to serve. I agree that the cowling is the issue and even with the large hole, a more subtle finish is entirely possible. The cowling, as it stands, however, is large and introduces an unnecessary contemporary intrusion to the front facade and so clearly is harmful.
11. The notice identifies three wooden fence panels (which it calls 'screens'), one between No14 and Budbury House and two between Nos14 and 12. When I carried out my site visit the second panel between Nos14 and 12 had been removed, but I shall deal with the two panels as in the allegation.
12. These are standard 6' solid fence panels and abut the front wall of the building providing screening at the top of the front gardens. This would seem to be the main outdoor area for the three dwellings. The rest of the garden is bounded by a low picket fence to which the Council do not object. The frontage would originally have been open across the whole building. It has now been subdivided into 3 gardens so I can understand the desire for some privacy, but the solid wooden panels look basic and out of place. Whatever happens, some element of sub-division will be necessary and will detract from the former open nature of the industrial use, but the effect of the large, solid fence panels is crudely obvious and clearly harms the building.

13. I shall correct the notice to remove reference to the alarm box and the two small black security cameras. The other matters have all harmed Nos12 and 14 and affected their character as a building of special architectural or historic interest.

The Appeal on Ground (e)

14. This ground is that the matters alleged should be granted listed building consent. I think it is clear from the discussion under ground (c) that I find the security lights and the white security camera to be incongruous and harmful. I accept there may well be a need for security arrangements involving lighting, but those chosen are cheap and tacky and their impact on the simple clean lines of the front and side façade of the building do not seem to have been thought through. I consider there are numerous ways that security lighting can be provided that does not involve the use of these lights. In the phraseology of the NPPF they cause less than substantial harm but there are no countervailing public benefits that outweigh that harm.
15. I have already found the two small black security cameras do no harm, but the larger white one does. As I found for the lights, there is clearly a better way of providing security than this camera which causes less than substantial harm with no offsetting public benefits.
16. Similarly with the cowling, there is a better solution than the large silver disc currently installed. However, the notice requires the ducting hole to be filled in as well. The appellant argues this was part of the original planning permission for the conversion. I do not have those plans so I cannot be sure. But whatever the truth of the matter a more discrete and less crudely modern solution would suffice. As it stands the cowling causes less than substantial harm with no offsetting public benefits.
17. Finally the fence panels. It is clear from the ground (c) discussion that I find these to be harmful, but that some form of sub-division is necessary and again with some thought could be achieved without the large solid panels currently in use.
18. There is also the question of the cumulative effect of all these relatively small additions to the building. Taken altogether, the items I have discussed above do cumulatively harm the listed building, however, with careful design there is no reason why all these elements should not be sensitively integrated into the façade of the building but this will require co-operation between the appellant and the Council.

Other Matters

19. The appellant has made a ground (b) appeal for the cowling. That is the matters alleged have not occurred. I think the argument is that the cowling was granted planning permission originally and so cannot now be an issue for the listed building. However, the Act is quite clear that it is an offence to carry out any works for the for the alteration of a listed building in any manner which would affect its character as a building of special architectural or historic interest. This is regardless of whether those works have planning permission or not, who carried them out or when. So, given my conclusions above, the appeal on ground (b) is bound to fail.

Conclusion

20. I shall correct the notice as discussed above to remove reference to the alarm box and two of the cameras, and to remove the requirement to block up the vent hole. The final appeal is on ground (h) that the time period is too short. I shall extend this to 6 months to enable the appellant to agree a scheme to replace the offending items with ones that are more acceptable.

Simon Hand

INSPECTOR