
Appeal Decision

Site visit made on 12 September 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Appeal Ref: APP/A1530/F/16/3143421

The Granary, Burnt House Road, Great Tey, Colchester CO6 1AS

- 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 Ms J Hollywood against a listed building enforcement notice issued by Colchester Borough Council.
 - The Council's reference is M088024.
 - The notice was issued on 27 January 2016.
 - The contravention of listed building control alleged in the notice is the installation of two satellite antennae on the chimney of The Granary.
 - The requirements of the notice are to remove the satellite antennae and fixings from The Granary.
 - The period for compliance with the requirements is 56 days.
 - The appeal is made on the grounds set out in section 39(1)(a),(b),(c),(e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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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.

Reasons

Ground (a)

2. The Planning (listed building and conservation area) Act 1990 at Part 1 Chapter 1 Section 5 notes that in this Act 'listed building' means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section. And for the purposes of this Act (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before July 2, 1948, shall be treated as part of the building. There is no list compiled to indicate that the Granary should not be treated as part of the building.
3. It is established that in 1981 Mr William Knapp and Mrs Denise Knapp owned the group of buildings known collectively at the time as Florie's Farm. While they were in the process of converting the buildings with potentially the Granary as an annexe to the barn, they kept ownership before and after listing. There is little detailed evidence presented on the curtilage. However, the appellant considers that The Granary should not be considered a curtilage listed building. She submits that, although The Granary is part of the group of

buildings that comprised the former Florie's Farm, and was in common ownership with the other buildings, at the time the barn and farmhouse were listed, it was clearly physically separate from the main barn. It had its own purpose historically, i.e. as an independent building for storing grain. However, many farm buildings had their own specific purpose and were not joined; that does not mean that the buildings do not relate to each other both physically and functionally and had a common agricultural purpose.

4. I acknowledge that the definition of curtilage suggests a small area around a structure, but case law indicates that it is a matter of fact and degree and the size can vary. On the limited evidence that is available, it is my view that in 1948 the curtilage is likely to have been the farm complex and all the buildings. The fact that some buildings have separate listings and others are not individually listed does not mean that they could not be of one curtilage. While the curtilage might now have changed, that again does not affect the fact that these were all closely associated and in the same ownership when listed.
5. Given the close grouping of the farm buildings and their obvious association, I am satisfied on the evidence presented and balance of probability that the curtilage included the Granary. It clearly formed part of the land and group that included the farm and farm buildings in January 1982 and would have formed part of the land in 1948. I note what the previous inspector said, and accept that the Granary was not specifically and separately identified, but that does not mean that it is not protected as a listed building, for the reason noted above. I also acknowledge that at times the council has not asked for listed building consent for some works to the building, but again that does not mean that it was not protected, as it is clear that the building conforms to section 5 (b) as noted above. The fact that there were applications and permissions for conversion does not affect the fact that this is a listed building. The appellant has not demonstrated on the balance of probability that the Granary is not listed through its curtilage location and the appeal on ground (a) fails.

Ground (b)

6. The appellant has appealed on ground (b), which argues that the alleged contravention has not taken place. However, clearly the two satellite dishes are in place as alleged. While one may be attached via the television aerial, they are attached to the listed building, so the alleged contravention has taken place and the appeal on ground (b) must fail. The ground (b) arguments made are more relevant to other grounds, where I will consider them.

Ground (c)

7. This argues that the matters alleged are not a contravention of section 9(1) of the Planning (Listed Building and Conservation Area) Act. This in turn refers to Section 7, which indicates that no person shall execute or cause to be executed any works for the demolition of a listed building or its alteration or extension in a manner which would affect its character as a building of special architectural and historic interest, unless the works are authorised. The works alleged were not authorised.
8. The question here is not whether the works have either a positive or negative effect, but whether they affect its character as a building of special architectural and historic interest. The list description is for the barn to the south west of Florie's Farm which was built circa 1800. The appeal building

clearly compliments the group of farm buildings and I consider that its significance and special interest relates to its age, materials, agricultural use and design, with the simple rural and agricultural character and appearance being important. While I appreciate that the building has now been converted to residential use, that conversion has been sensitively undertaken, maintaining the important historic, traditional agricultural character of the building. The introduction of the satellite dishes, with their modern, more industrial appearance, is alien to the character of the building and I conclude the dishes do affect its character as a building of special architectural and historic interest. The appeal on ground (c) fails.

Ground (e)

9. The Granary is towards the outside of the group, with the chimney as a prominent feature near the corner of the building. The satellite dishes are located on the chimney and are very prominent and clearly visible from the road and from the public right of way that passes around the adjacent field. Because of their modern appearance, they are incongruous and alien features against the important historical agricultural character of the building. I conclude that the satellite dishes cause harm to the character of the building as being one of special architectural and historic interest and also to their significance.
10. The Government's National Planning Policy Framework (the *Framework*) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas and listed buildings. It draws a distinction between substantial harm and less than substantial harm to such an asset. For the latter, which applies here, the test is that the harm should be weighed against public benefits, including securing the optimum viable use.
11. I have taken into account the need for the internet connection and difficulties the appellant perceives with the service if relocated. However, I also note that the owners of the barn have relocated their service. So while acknowledging the appellant's concerns I do not consider that this amounts to public benefits and these would not in any case outweigh the harm caused by the satellite dishes. I conclude that listed building consent should not be granted for the dishes and therefore the appeal fails on ground (e).

Ground (i)

12. This ground questions whether the steps required restore the character of the building to its former state. Clearly, the removal of the satellite dishes would restore the building to its state prior to attachment of the dishes. I have noted that above the council would accept them on a pole elsewhere or attached to the garage, where the appellant says they would be more prominent. However, that would not cause the harm that these are causing to the listed building, and being much lower than the Granary, I consider that if they were located there, they would be less prominent. Whether or not the poles are relocated to a barn or a pole, I conclude that the steps required would restore the listed building to its former state and the appeal on ground (i) fails.

Graham Dudley

Inspector