

Appeal Decision

Site visit made on 12 October 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/J1915/F/16/3141465

Danes, 34 Little Berkhamstead Lane, Little Berkhamstead SG13 8LU

- 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 Simon Blayne against a listed building enforcement notice (LBEN) issued by East Hertfordshire District Council.
 - The enforcement notice was issued on 26 November 2015.
 - The contravention of listed building control alleged in the notice is: the unauthorised removal of 6 fireplaces and the replacement of those chimneypieces sited with (sic) the following rooms and as shown on the attached plans (a) Main Hallway, (b) Main Drawing Room, (c) Small Living Room, (d) Dining Room, (e) Master Bedroom, (f) Bedroom 3.
 - The requirements of the notice are to: Remove the above mentioned unauthorised fireplaces and reinstate replica fireplaces to match, like for like, those removed (shown as existing fireplaces in the Heritage Design and Access Statement dated June 2015 and attached herewith.
For the avoidance of doubt, the replacement fireplace within bedroom 2 (referred to in the design and access Statement) is not the subject of this enforcement notice.
 - The period for compliance with the requirements is 6 Months.
 - The appeal is made on grounds (e) and (g) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Appeal B - Ref: APP/J1915/Y/15/3141466

Danes, 34 Little Birkhamstead Lane, Little Berkhamstead SG13 8LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Simon Blayne against the decision of East Hertfordshire District Council.
 - The application Ref; 3/15/1166/LBC dated 1 June 2015 was refused by notice dated 14 October 2015.
 - The development proposed is: Replacement of chimneypieces in rooms specified in the Design and Access Statement. (Note: These are the same chimneypieces as referred to above in Appeal A).
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Decision

1. Both Appeals A and B are dismissed (see formal decisions below).

Background information and matters of clarification

2. The appeal building 'The Danes' was listed in Grade II in November 1966 and lies within the Little Berkhamstead Conservation Area (LBCA). It dates back to the early 18th Century with extensions and other alterations carried out in the early 19th and 20th Centuries. It is of seven bays and three storeys, the third of which is a

20th Century addition. It is still recognisable from its list description where it is noted that the interior elements (and thus the original fireplaces/chimneypieces) were not inspected. The house is located within a 13 acre estate to the west of Little Berkhamstead and is surrounded by mature trees and shrubs. It is south facing and is still approached via two tree-lined gravel driveways which lead to the front and to the rear of the house.

3. 'Danes' has a detailed planning history. Work relating to the rendering of the external walls (in the 20th Century) is recognised to have caused harm to the historic fabric. In February 2014 KDK Archaeology Ltd carried out a historic building recording of 'Danes' on behalf of the appellant in relation to various works which were proposed. These included replacement of the cement render with lime render; the renewal of dated sanitary fittings and tiles; remodelling of some rooms and upgrading of heating and other services.

4. The initial application (3/14/0765/LB) for the works also proposed the removal of several fireplaces. Following objections by the Conservation Officer (CO) amended plans were submitted indicating that existing fireplaces would remain. The amended application was approved but the fireplaces, the subject of the LBEN were removed. Application 3/15/1166/LBC (now Appeal B) was then submitted. The KDK report was most thorough and included photographic records of the interior including fireplace surrounds.

5. The appellant's Heritage and Design and Access Statement (HDAS), in relation to application 3/15/1166/LBC, illustrates the pre-existing fireplaces and their replacements in the respective rooms of the house. However, as indicated by Historic England (HE), in their consultation response to the Council of 6 July 2015, the statement did not assess the interest of the original chimneypieces and only dated one (in the main hall) as being 19th Century with a 20th Century overmantel above. HE recommended that the Council did not approve the listed building consent application.

6. Following refusal of consent an assessment of the original chimneypieces and their replacements was carried out by AHP Architectural History Practice (AHP). This assessment appears to have been based upon the photographic evidence provided in the HDAS but also includes an outline history and description of the building. As far as the interior is concerned AHP refers to the interior being as '*equally muddled*' as the exterior and that it is impossible to deduce, with certainty, the original plan. However from photographic records it is contended that, with the possible exceptions of the cornices to the larger rooms, the decorative features and fittings to the main rooms were all late 19th or 20th Century in character.

7. In the assessment of the significance of the house it is concluded that, although it is unlikely that the house contains any pre-18th Century fabric, the house is still of some evidential value and that it also has some historical value. But, due to the mainly 20th Century alterations, it is concluded that the building is of limited aesthetic value and, equally, of little communal value. With regard to the National Planning Policy Framework (NPPF) criteria (in assessing significance) it is contended on behalf of the appellant, that the building is of low Archaeological Significance; of medium Architectural Significance; of low Artistic Significance and of medium Historic Significance.

8. An 'Assessment of fireplaces' was carried out in 2015 by Lee Prosser, Historic Buildings, Landscape Archaeology (LPHBLA). The report describes each of the fireplaces the subject of the LBEN and numbers them in accordance with a previous historic building assessment. In summary the report concludes as follows:

G5 Main Hall: C18th style, date unknown, modifications and C20th additions.
G6 Main Drawing Room: C18th Style, date unknown.
G3 Small Living Room: late C19th, composite with additions.
G7 Dining Room: 1830s in style, with C20th augmentations.
F3 Master Bedroom: possibly a copy of G7, modern slips.
F6 Bedroom 3 – 1870s.

9. In reaching my conclusions in these appeals I have had regard to the National Planning Policy Framework (NPPF) and in particular to section 12 which covers 'Conserving and enhancing the historic environment'. I have also had regard to the relevant parts of Planning Practice Guidance in relation to conservation and have had special regard to the requirements of section 16(2) of the Planning (Listed buildings and Conservation Areas) Act 1990 (PLBCAA).

Appeal A on ground (e) and Appeal B

Main issues

10. The main issues in both appeals is the effect that the removal of the original fireplaces and their replacement with new fireplaces has had on the integrity and character of the listed building and on its features of special architectural and historic interest. There is no impact on the setting of the listed building and the works do not affect the LBCA.

Reasons

11. From all of the submitted evidence relating to the 6 fireplaces and from my inspection of the replacements, I share the Council's; Historic England's (HE); The Society for the Protection of Historic Buildings (SPAB) and the Parish Council's (PC) concerns about the effect that the works have had on the character of the listed building and its special features (namely the fireplaces).

12. Whilst acknowledging that 'Danes' has been radically altered over the years, it is clear from the KDK report that although the house might have had mediaeval origins it is predominantly a C18th house which has been much altered in the C19th and C20th Centuries. All of these alterations clearly added to the historic and architectural evolution of the house and together they presented an overall effect which (despite no internal inspection) led to the listing in 1966.

13. I therefore agree with the CO's comment that the significance of this heritage asset derives from its historic, evidential and aesthetic values found in its design, evolution and architectural features. Some aspects of its evolution had a negative impact on its significance (for example the cement rendering) but, overall, it has retained sufficient architectural and historic features to render it worthy of its listed status.

14. Although the exact dates of the various fireplaces have not been established it is clear from the submissions that the original ones in the Main Hallway (G5) and the Main Drawing Room (G6) were of mid C18th design. Clearly the overmantel was a C20th addition but the KDK report refers to both of these fireplaces being '*mid-18th century lugged fireplaces*'. The LPHBLA report also refers to the fireplaces as being C18th style. Thus these two architectural features relate to a particular period of the evolution and history of the house. Under application 3/14/0765/LB, these two fireplaces along with the others were identified as being of special architectural and historic interest.

15. The historic and evolutionary story continues with regard to the Small Living Room fireplace (G3). Although there was a C20th coal burner in place the original

chimney piece is described as late 19th century with timber surround, tiled hearth and ogee moulding. The fireplace would have reflected the changes to the house during this period. The same can also be said of the Dining Room Fireplace (G7) and the Master Bedroom Fireplace (F3), although the latter is said to be a possible copy and with modern slips.

16. The KDK report indicates that the part of the house in which bedroom 3 is located would have been completed between the early C19th and early C20th and the fireplace is described as a 19th century timber surround with timber mantel shelf on scroll brackets. Again this continues the evolutionary story of these particular architectural features to the house and, in conclusion on the original fittings, I agree with the Council that these chimney pieces did form part of the special architectural and historic interest of the building and their loss has had a detrimental impact on the integrity and character of the listed building.

17. I now turn to the replacement fireplaces and whether or not these are acceptable so as to justify removal of the original pieces. The descriptions in the HDAS statement are taken from the retailer's description. The Main Hallway (G5) and Main Reception (G6) pieces are referred to as 'St. James stone'. These are described as being of '*simple sensuous lines*' and the design, based on one by James Gibbs is of an early C18th design. However, I agree with the CO that, although this design has '*architectural pedigree*', they are not the same as the original mid-C18th century design. In my view these two fireplaces do not just lack authenticity; they appear as stark new additions which could just as well be located in any other pastiche design or modern dwelling.

18. I also agree with the CO that the Small Living Room fireplace (The Burford) appears to be out of proportion within this particular room and I do not agree with the contention that this chimney piece '*reflects the Regency Classicism*' that would have influenced the remodelling of the house. Again I find that it detracts from, rather than enhancing, the architectural and historic qualities of this part of the house and do not fully understand the justification for this particular design in this location.

19. I find the arguments relating to the 'Lincoln' design (Dining Room Fireplace G7) and the references to Sir John Soane to be equally perplexing. This design, like the others has nothing in common with the architectural and historic evolution of '*Danes*'. In my view neither do the two new fireplaces in the Master Bedroom (F3) and Bedroom 3 (F6).

20. Overall, therefore, I do not consider that the replacement fireplaces can justify the loss of the original chimney pieces. They do nothing to replicate the character, appearance or dates of the original fireplaces. I consider that the new fireplaces are seen as modern replacements, chosen from a catalogue and with only a few date references relating back to the history of '*Danes*'. Having noted the detailed submissions relating to the new installations, it seems to me that the arguments in their favour are more a post-rationalising of the fact that they were installed without consent rather than as a full and accurate historical justification.

21. In conclusion, therefore, I find that the works carried out have resulted in harm to the integrity and character of the listed building as well as to its special architectural and historic features: namely the original fireplaces. The works are contrary to the policies set out in section 12 of the NPPF and, although the harm is less than substantial (paragraph 134), there are no public benefits which outweigh the harm caused. I understand the predicament in which the appellant will now find himself but the Council did not consider it appropriate to grant listed building consent for the works in the first instance and I agree with their stance. It cannot, therefore,

be justifiable to grant consent at this appeal stage and so Appeal A on ground (e) and Appeal B must both fail.

Appeal A on ground (g)

22. An appeal on this ground is made on the basis that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.

23. Despite the various reports/submissions made in relation to the LBEN Appeal there is no full argument put forward as to why the requirements are excessive. The Council's case is that the unauthorised fireplaces are out of character and unsympathetic to the historic significance of the building. Replacement fireplaces on a like for like basis with those removed would restore these elements of the building to the condition before the works were carried out.

24. Clearly there is no indication as to the whereabouts of the original fireplaces but in situations such as this, where there is an accurate record of what the fireplaces looked like, it is possible to replicate originals. This is normally accepted practice by Councils, by Historic England and by The Society for the Protection of Ancient Buildings.

25. In conclusion, therefore on this ground I do not consider that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. Appeal A also fails on ground (g).

Other Matters

26. In reaching my conclusions in these appeals I have taken into account all of the other matters raised by the Council, interested persons and parties and on behalf of the appellant. These include the full planning history; the full grounds of appeal in both cases; the LPHBLA report; the KDK Archaeology Ltd report; the various craftsmen's and contractors statements; the HDAS (by Broadbent Design); the AHP (Chimney Replacement) report; the photographic submissions and various drawings.

27. However, none of these carries sufficient weight to alter my conclusions on the main issues and grounds of appeal. Nor is any other factor of such significance so as to change my decisions that both appeals should be dismissed.

Formal Decisions

Appeal A

28. Appeal A is dismissed and the listed building enforcement appeal is upheld. Listed building consent is refused for the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Appeal B

29. Appeal B is dismissed and listed building consent is refused for 'Replacement of chimneypieces in rooms specified in the Design and Access Statement' at The Danes, 34 Little Berkhamstead Lane, Little Berkhamstead, Herts SG13 8LU.

Anthony J Wharton

Inspector