

Appeal Decision

Site visit made on 12 December 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/C1625/F/16/3150990

2 Rosebank Cottages, Slad, Stroud GL6 7QD

- 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 Iain Collins against a listed building enforcement notice (LBEN) issued by Stroud District Council (the LPA).
 - The enforcement notice was issued on 28 April 2016.
 - The contraventions of listed building control alleged in the notice are:
 - i. The removal and replacement of the staircase from the ground and first floor levels, including the right turn in the staircase between the ground and first floors.
 - ii. The construction of a partition wall, including cupboard in the attic.
 - iii. Removal of partition wall (including cupboard and door adjacent to the staircase) on the ground floor.
 - The requirements of the notice are to carry out the following steps:
 - i. The new staircase marked in blue on the attached plan, on all floors must be removed and the staircase restored to its original design, construction, materials and orientation.
 - ii. Remove the partition wall and cupboard in the attic marked green on the attached plan.
 - iii. Restore this partition wall and cupboard and the door to the stairs on the ground floor shown on the attached photo. The partition (sic) must be constructed from painted timber boards to match the original partition. The door must be a plank and rail door to match the original.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on grounds (e) and (h) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).
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Decision

1. The appeal is allowed and the Listed Building Enforcement Notice is quashed. See formal decision below.

Costs application

2. An application for a full award of costs has been made by Mr Iain Collins against Stroud District Council. This is the subject of a separate decision.

Background information

3. Rosebank Cottage was originally a detached cottage which was sub-divided around, or before, the early 20th Century. The frontage dates back to the 18th Century and the rear wing to the 19th Century and the property was listed in Grade II in the 1980s. The appeal property is two and a half storeys. It is a stone vernacular building which, in itself, is of special architectural and historic interest. However, the listed building has added historic and social significance, in that it was the childhood home of Laurie Lee and featured in this famous author's novel 'Cider with Rosie'. The LPA refers to certain parts of the book and in particular to memories that the author

had of the upper floors which is subject to part of the LBEN. LBC has been granted recently by the LPA for a first floor conversion of a bedroom (the bedroom of Laurie Lee and his brother) to a bathroom and for a new modern extension at ground floor level on the southern elevation.

4. Following the carrying out of the works to the staircase and the attic room the LPA invited the appellant to submit a listed building consent (LBC) application. This was submitted under application S.15/2449/LBC and was refused on 8 December 2015. All elements of the works were considered by the LPA to be detrimental to the character and special interest of the listed building. Delivery Policy ES10 (Valuing our historic environment and assets) of the Stroud District Council Local Plan (SDCLP) had been referred to in the Officer Report.

5. The reasons for refusal also referred to the works being '*contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990*' (PLBCAA). However, the relevant section 16 (2) of the PLBCAA is not a 'policy' that proposals either accord with or, are contrary to; it is a statutory duty which indicates that:

'In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State 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'.

6. In reaching my conclusions in this case I have had regard to the duty in section 16 (2) of the PLBCAA, as well as to the relevant policies set out in the National Planning Policy Framework (NPPF). In particular I have taken into account sections 7 and 12 of the NPPF which require good design and seek to conserve and enhance the historic environment. I have also had regard to Policy ES10 of the SDLP which is up-to-date and accords with the NPPF and to national Planning Practice Guidance (PPG) with regard to the protection of our heritage.

The appeal on ground (e)

7. The main issues are the effects of the works (to staircases and attic) on the integrity and character of the listed building and on its features of architectural, historic and social importance. I now turn to each part of the works.

1. Effect of works to staircases including right turn - ground and first floors

8. The LPA indicates that the stairs appear to date from the sub-division of Rosebank over a century ago. It is stressed that it is not necessary for the staircases to be original (to Rosebank) for them to be either of interest, in themselves, or as an important contributor to the significance of the listed building as a whole. Being the original, or substantially original, staircase for No 2 is sufficient and it is indicated, in their view, that this is what is at issue in the LBEN.

9. It is acknowledged by the LPA that, at a cursory look, the new stairs appear similar to the originals. However it is also considered that there are significant differences between new and old and particularly with regard to the narrow and curved treads of the former and to what is described by them as the modern steps, clunky modernity and thick, square clunky balustrades of the latter. The LPA is also concerned about the top winder arrangement; the fact that the ground to first floor staircase is shallower and that the stair has been extended into the main ground floor space.

10. The LPA acknowledges that it is difficult to assess exactly when the ground floor stairs were boxed in, since historic fabric has been removed. It is accepted, however, that it could date back only to the 1950s. What concerns the LPA is that, in their view, the removal of the traditional 'boxing-in' has resulted in a bland and modern-looking, exposed staircase with unduly thick and equally bland balustrades. The loss

of the historic fabric of the old stair is considered to have stripped away some of the '*patina of age*' that gave No 2 some of its character as a listed building. It is also indicated that the loss of patina cannot be replicated by the works required.

11. The appellant stresses that the LPA did not prepare its own assessment of significance of the building; that Historic England (HE) and amenity societies were not consulted (and have not been involved at this appeal stage) and that the decision to take enforcement action was based upon their opinion that the doors at ground floor level were 'clearly' of 19th Century origin. The appellant indicates, therefore, that it is reasonable to assume that the LPA considered the staircase and boxing-in were of similar date. They are most clearly not of this earlier date.

12. It is further contended that there is no evidence to support the LPA claim that the old staircase had '*subtle finesse*' or exhibited any '*craftsmanship*' or '*patina of age*'. It is considered that it was just a utilitarian structure made up of two elements that are still present (including the metal I-beam and cut floorboards). With regard to the top winder, it is indicated that the date it was fitted is unknown, but that it was evidently a later addition, as it sat on top of the penultimate step of the staircase. It is considered possible that the overhanging step was inserted after the Lee family left the house.

13. It is stressed that the design of the new stair was not given as a reason for refusal of LBC and it is not accepted that the old staircase, in its 1901-1910 form, constituted '*vernacular architecture*'. The definition of '*vernacular*' is referred to, as are sections of Brunskill's '*Traditional Buildings of Britain*' and section 16 of the PLBCAA. It is contended that it cannot be claimed by the LPA that the staircase and the boxing-in are '*vernacular*' architecture or that these elements are of '*special interest*'. It is accepted that the cottage does have some vernacular interest but it is stressed that '*some interest*' is not the same as '*special interest*'.

14. Finally in relation to the staircase it is contended that it is difficult to see how it might be possible to '*return to the design, proportions and orientation of the two flights of stairs*'. This is because there is no detailed evidence of timber type and sizes, methods of jointing, nature of carriage and other matters of detail design. It is stressed that the LPA has not provided any specification and that it has also made no reference to the question of the safety of the staircases. Simply referring to having to '*match the original*' is not a valid requirement.

Assessment: works to the staircases

15. Having seen the new staircase as constructed and noted the steel beam which clearly supports this and the previous stair, I agree with the appellant that the former staircase was not original to the building. Whilst accepting that it was the original location for the staircase at No 2, the evidence indicates that, at the earliest, it dates back to the early or mid-20th Century. The fact that the doors were of the 19th Century did not necessarily mean that the rest of the construction dated back to the same date. The LPA appears to accept that this is the case.

16. With regard to the former top-winder, this was clearly a latter addition which sat on top of the turning tread. It would seem that this facilitated access to the first floor without the need to go through the bedroom. From the photographic evidence the arrangement, in my view, can only be described as a 'hotchpotch' of a staircase which, fails to satisfy today's Building Control standards and can hardly be described as having '*subtle finesse*' or '*craftsmanship*'. I agree with the appellant's case that it was a basic utilitarian staircase, which had been roughly altered to suit a family's particular circumstances. I acknowledge that this was the staircase which the Lee family would

have used but, in my view, given the choice, they may well have preferred a different and safer arrangement.

17. Having seen the staircase in-situ, I agree with the LPA that the key question is; do the works '*preserve the building*? Whilst agreeing that the staircase has a more modern appearance than the boxed-in stair, I do not consider that it is harmful to the historical and social significance of the building. At all levels the new stairs are well designed, using traditional materials. Some craftsmanship has also gone into the making of the stairs unlike for the one removed. I consider that the stairs sit well with the chunky detailing of other parts of the house including the traditional doors and the lintel over the ground floor fireplace. In my view they do not harm the character or integrity of the building, or any of its features of architectural or historic interest.

18. I also consider that they accord with the relevant policies set out in sections 7 (requiring good design) and 12 (conserving and enhancing the historic environment) and with Policy ES10 of the SDLP, which also seeks to preserve, protect or enhance the District's historic assets. The LPA refers to paragraphs 132 and 134 of the NPPF and I have given great weight to the conservation and enhancement of the building, as a historic, architectural and social asset. I do not consider that any measurable significance of the asset (particularly in relation to the Laurie Lee connection) has been lost or harmed by the alterations carried out to the staircases.

19. I consider that the works have been carefully and skilfully carried out, so as not to harm any significant part of the structure and fabric of the building. They are acceptable in terms of form, scale, design and materials. In my view, the impact of the alterations to the staircases does not even amount to '*less than substantial harm*', as referred to in paragraph 134 of the NPPF. The appeal succeeds, therefore on ground (e) in relation to this part of the works carried out.

2. Effect of the works to the Attic - partition wall and cupboard

20. The LPA refers to a link with Laurie Lee's novel and the phrase '*tent-like bulging walls*', as well as to the suggestion that the author could have been referring to plaster falling away from the ceiling. It is contended that the openness of the attic has been lost by splitting the original space into two smaller rooms. Again the key question is whether the works '*preserve*' the building. It is the LPA's view that the requirement to remove the partition and the cupboard in the attic is the only work which can restore the attic space to its full, open proportions and thus to '*preserve*' the building.

21. The appellant refers to the production, by the LPA, of one sentence that described a space that was unrecognisable, even before the sub-division took place. It is argued that it is an overstatement to suggest that the attic space has been lost only to be replaced by two narrow rooms. The fact that the LPA gave permission for a bathroom to the first floor is referred to and it is questioned why this logical and acceptable division of space cannot be applied to the less important attic space.

Assessment

22. Having seen the partition and the storage cupboard(s), within the attic space, I do not agree with the LPA that the listed building is not '*preserved*' by the works carried out. Again the works have not detrimentally affected the structure or fabric of the building. The main roof structure is still readily visible and readable and, again I consider that the works have been carried out in a sensitive and well-designed manner. In my view the works conserve and preserve the historic fabric of the house and could, in any case, be easily reversed without harm to the building.

23. In my view, the works to the attic have hardly had any effect on the character and integrity of the listed building and no harm has been caused to the historic and

architectural features or fabric of this part of the building. The attic works can be compared to the first floor consented works, whereby the Lee brothers' bedroom was converted into a bathroom. In my view, the latter could be considered to have had more of an impact on the social significance of the listed building than any of the works which are subject to the LBEN.

24. With regard to the LPA's reference to the book (Cider with Rosie) and, in particular, *'the tent-like bulging walls'* and *'plaster coming away from the ceiling'*, I accept that these are evocative and important issues in relation to the author's memory of the house; his writings and the continued links between the book and the house. However, listed buildings have always needed to adapt and change (subject to appropriate consents) over the years, in order to be preserved for future generations. It is likely that the Lee family made some changes to the house and it is not unreasonable to consider that, given the opportunity, they may have preferred to install a new bathroom and provide the boys with separate bedrooms in the attic.

25. In this case I consider that the minor changes to the attic space will not cause any future visitors to fail to make the links between book and house. This is particularly the case in the attic, where the main rough-hewn roof purlin cuts across the dormer window and sections of still rough plasterwork are noticeable between the structural roof timbers.

26. In conclusion, I find that these works also preserve the building's character, integrity and its special features of architectural, historic and social interest. The significance of the building is not harmed. Again, and having had special regard to section 16(2) of the PLBCAA, I consider that the attic works accord with the NPPF in relation to the conservation and enhancement of this listed cottage as well as to Policy ES10 of the SDLP.

3. Removal of wall (cupboard/door to the staircase) - ground floor

27. As indicated above the LPA acknowledges that it is difficult to assess exactly when the ground floor stairs were boxed-in. There is no firm evidence in this respect and it is agreed that this work could date back only to the 1950s. The LPA view is that the traditional boxing-in has given way to a bland and modern looking exposed staircase and that there has been a loss of the *'patina of age'* that gave No 2 some of its character as a listed building.

28. On behalf of the appellant, it is indicated that the photograph attached to the LBEN is undated and, based on the styling and detailing of the room, could have been taken in the 1960s and before the building was listed. Having seen the appellant's photographic evidence, and noting the different phases of the staircase construction, it appears to date back (Phase 1) to around 1901 to 1911. Phase 2 indicates that horizontal boards around above the string show that it must have been boxed-in at the time. It is likely that Phase 3 was carried out around 1958, with similar boarding to that used in the bedroom of Laurie Lee and his brother.

29. On the basis of the above evidence it is contended that the staircase itself was not of special architectural or historic interest and only represented a simple utilitarian structure without any close association with the Lee family. The staircase was not considered to be of any architectural importance and cannot be said to illustrate important aspects of the nation's social, economic or cultural history.

Assessment

30. I acknowledge that, from the photograph attached to the LBEN, the boxed-in staircase appeared to have some patina of age but the appellant's research is quite thorough in setting out the likely phases of its construction. It clearly had an

association with Laurie Lee and his family in that they used the stair and the cupboard below. However, again the question to be asked is whether or not its removal and its replacement with the new open staircase has fundamentally harmed the listed building as one of special architectural or historic interest. Like the other works carried out, the question is, has it preserved the listed building?

31. Clearly the old boxed-in stair has not, in itself, been '*preserved*'. However, other than an association with the Lee family, there is no evidence to suggest that it was a staircase of architectural or historic significance. I have referred to it above as a 'hotchpotch' of a staircase and the detailed analysis of its likely phased construction reinforces my view that it was not of such significance so as to warrant retaining it at all costs. In my view an alternative staircase, which preserved and did not harm the character or integrity of the listed building (or any of its other features of special interest) is acceptable.

32. Having considered all of the submissions, including the various photographs of the staircase, I have concluded above that the new staircase does preserve the building. I have referred to its appropriate form, design and materials above and that, in my view, the impact of the alterations does not even amount to '*less than substantial harm*', as referred to in paragraph 134 of the NPPF. Again the works accord with the relevant NPPF policies and with Policy ES10 of the SDLP. I do not find that the loss of the boxing-in, the amended under-stair cupboard and the increased length alter my view that LBC should be granted. It follows that the appeal succeeds on ground (e) and the appeal on ground (h) does not fall to be considered.

Other Matters

33. I appreciate the great importance of the links between this listed building and Laurie Lee, and his most famous novel. The list description itself refers to the author and, as indicated by the LPA, there are clear references in the book to the house and the lives of the family. These are indeed important historical and social factors which contributed to the overall reasons for listing and these matters continue to contribute to its special qualities.

34. I have given great weight to these factors but, overall, I do not consider that the works as carried out have caused harm to the listed cottage or to its significant historical and social significance. I have found all aspects of the works to be acceptable having regard to the statutory duty under section 16(2); the policy requirements of the NPPF and Policy ES10 (Valuing our historic environment and assets) of the Stroud District Council Local Plan (SDCLP). I am satisfied that the carrying out of the works will not have diluted the evocative historic and social importance of this house.

35. Over the years other '*owners/custodians*' have cherished, yet altered the listed building to suit their reasonable up-to-date living needs. The latest owners have done just that (through the other LBCs). They are clearly aware of the important history of the house, as well as being supportive to those who wish to see where Laurie Lee lived during his childhood. I am satisfied that the works carried out will not be detrimental to the enjoyment and understanding of others with regard to where the author lived. The house is once more a family home, which although altered, will still be perceived to be explicitly linked to the author and his novel.

36. I have taken into account all other matters raised by the Council and by, and on behalf of, the appellant. These include the full planning history; the reasons for refusal of the retrospective LBC application; the LPA's detailed comments on the grounds of appeal; the LPA conclusions; the detailed statements submitted by the appellant; the LPA Case Officer review (11 December 2015); the fact that the

appellant was advised that sub-division of the attic space would not be looked upon favourably and all of the photographic evidence.

37. However, none of these matters carries sufficient weight to alter my conclusion that listed building consent should be granted for the works as carried out. Nor is any other factor of such importance so as to change my decision.

Formal Decision

38. The appeal is allowed and the listed building enforcement notice is quashed.

39. Listed building consent is granted for (i) the removal and replacement of the staircase from the ground and first floor levels, including the right turn in the staircase between the ground and first floors; (ii) the construction of a partition wall, including cupboard in the attic and (iii) the removal of partition wall (including cupboard and door adjacent to the staircase) on the ground floor: at, 2 Rosebank Cottages, Slad, Stroud GL6 7QD.

Anthony J Wharton

Inspector