
Appeal Decision

Site visit made on 4 January 2017

by Simon N Hand MA

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

Decision date: 06 January 2017

Appeal Ref: APP/E9505/C/16/3154806

Hall Common Farm, Hall Common, Ludham, Norfolk, NR29 5NS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Stephen Pitkethly against an enforcement notice issued by The Broads Planning Authority.
 - The enforcement notice was issued on 18 May 2016.
 - The breach of planning control alleged in the notice is failure to comply with conditions Nos 2 and 3 of a planning permission Reference BA/2014/0408/COND granted on 9 February 2015.
 - The development to which the permission relates is "*Variations on conditions 2 and 5 on planning permission BA/2014/0271/HOUSEH for omission of hinged doors and substitution of a roller shutter door on new boathouse*". The conditions in question are No 2 which states that: *The development hereby permitted shall be carried out in accordance with the submitted application form date stamped 3rd December 2014, Heritage Statement date stamped 12th December 2014 and plans titled 'Plans, Elevations and Section' drawing number 5500.1B, and AMENDMENT regarding the use of timber rather than metal titled in information sheet titled 'Timber Roller Shutter Door' dated 21/12/2014, unless otherwise first agreed in writing by the Local Planning Authority*; and No 3 which states that *Prior to the installation of the roller shutter door hereby approved the following will be provided to the Local Planning Authority for their written approval and that written approval to have been given; a. Details of the proposed finish (treatment) of the door b. Joinery details (1:20 section and profile drawings) of the door The development shall then be constructed and retained in full accordance with the approved details and retained for the lifetime of the development.*
 - The notice alleges that the conditions have not been complied with in that a metal roller shutter door has been installed instead of a timber roller shutter door.
 - The requirements of the notice are: 5.1 to remove the metal roller shutter door from the premises; 5.2 to remove from the premises all materials arising from compliance with paragraph 5.1 above and then make good with timber roller doors in accordance with planning permission BA/2014/0408/COND.
 - The period for compliance with the requirements is 5.1 4 weeks; 5.2 8 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, the conditions Nos 2 and 3 attached to the planning permission dated BA/2014/0408/COND granted on 9 February 2015 by the Norfolk Broads Authority are discharged and a new condition is substituted.

2. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for *Variations on conditions 2 and 5 on planning permission BA/2014/0271/HOUSEH for omission of hinged doors and substitution of a roller shutter door on new boathouse* without complying with the said conditions but subject to the other conditions attached to that permission and to the following new condition:
 - 1) The roller shutter shall be painted black to match the colour of the walls of the boathouse and shall thereafter be retained as such.

The Appeal on Ground (a)

3. The boathouse has been completed and there is no dispute that the conditions have not been complied with as alleged. Originally the permission allowed only wooden side-hinged doors to be used on the boathouse. The appellant never considered these would be practical as the opening is 7m, and the doors would have to be so large they would be too heavy for the hinges and be difficult to open. Having got the planning permission he then applied for a variation to allow a metal roller shutter to be used instead. The Authority was unwilling to allow this but agreed a compromise which would be a timber roller shutter. When the roller shutter was installed the Authority realised it was a metal shutter. The appellant then sought a non-material amendment (NMA) to the original permission for a pair of hinged timber lattice doors to disguise the metal roller shutter. The Authority agreed to this, and offered to not pursue an enforcement notice against the metal shutters if the proposed timber lattice doors were installed. In the event the appellant decided he would prefer to keep the metal shutter without the timber lattice doors and so did not implement the NMA. An enforcement notice was issued to ensure a timber roller shutter is used and that is the subject of this appeal, with the implementation of the NMA as a potential fallback to be considered under ground (f).
4. The site lies within the Broads National Park and the Ludham Conservation Area, as well as being within the setting of the appellant's listed farmhouse. There is no dispute that this is an area of considerable design sensitivity and that the relevant policies are contained within the Authority's Development Plan Document (2011), which seek to protect the fabric and setting of historic assets in the Broads, its visual amenity and encourage high design quality (DP4, DP5 and DP28). The Council also refer to the NPPF which requires development to reinforce local distinctiveness and protects the significance of listed buildings.
5. The boathouse is a large structure, a simple rectangular building with a pitched roof, with wooden cladding painted black. It has a dark metal panelled roof and a glass gable end giving it a simple modern feel. I am aware the Authority's document 'Building at the Waterside' notes that black pitch coatings on timber have become a distinctive local style. The boathouse stands on a pontoon at the end of a track that leads from the rear of the listed farmhouse down to a narrow channel that provides access to the Womack Water, a stream that feeds into the main river to the south. A private footpath leads from the front of the boathouse to the end of the channel giving views along the Womack Water. The Womack Water at this point splits around an island, the main channel being on the far side away from the channel that provides access to the boathouse. This is an area of mixed woodland and fen and apart from boats using this subsidiary channel, there would be no public views of the

- boathouse at all. From the end of the small channel, looking back towards the boathouse, it can be seen tucked away behind a clump of trees.
6. The listed farmhouse is seen across a field in the distance, itself partially hidden by trees. From this distance there is no apparent relationship between the boathouse and the farmhouse. The significance of the farmhouse does not lie in its relationship to the water, which is tenuous at best, and although the farmhouse can be seen from the boathouse, there are no important visual links between the two buildings; they appear to be entirely separate. In my view the boathouse building as a whole does not impinge on the setting of the listed farmhouse, and the impact of the roller shutter is thus minimal. There is no impact on the significance of the heritage asset, the setting of which is therefore, preserved.
 7. As would be expected, the back of the boathouse faces inland, and it is difficult to obtain a view of the roller shutter except from the path on the appellant's land or from the water. From close too, the black shutter appears to be clearly made of metal rather than wood, but from further away, this distinction becomes harder to see. In my view, from only a few metres away, it would be difficult to tell whether the shutter was wooden or metal. The Council would prefer side hung wooden doors, but they have granted permission for a wooden roller shutter. A roller shutter has quite a different visual impact to a pair of doors, but it seems to me that once one has accepted that roller shutters are acceptable, and according to the appellant, this is typical of new boathouses around the Broads, as long as subdued colours are used, it does not matter whether they are wooden or metal. Particularly in this case where the boathouse is partially hidden and away from any obvious viewpoints. In my view therefore, there is no conflict with policies DP4, 5 and 28.
 8. I am aware of the appellant's arguments that it is actually impossible to find a manufacturer of timber roller shutters wider than 6m, and that the lattice-work doors are not an effective remedy as they could merely be left open, thus failing to hide the shutter at all. I also consider the lattice-work doors would merely serve to draw attention to the boathouse, which would otherwise be unnoticed by all but the most eagle-eyed of passing boaters. However, I have given these matters little weight as I have determined the appeal on its merits.
 9. I shall quash the notice and discharge the two conditions. As condition 3 includes a retention clause, I shall add this back in as a new condition to ensure the roller shutter is maintained the same colour as the boathouse. There is no need to consider the appeal on ground (f).

Simon Hand

Inspector