
Appeal Decision

Site visit made on 30 January 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 9 February 2017

Appeal Ref: APP/D3505/F/16/3153062

9 Church Walk, Long Melford, Sudbury, Suffolk CO10 9DL

- 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 John David Keld Fenwick against a listed building enforcement notice (LBEN) issued by Babergh District Council.
- The enforcement notice was issued on 26 April 2016.
- The contravention of listed building control alleged in the notice is the installation of replacement portico which is inappropriate in both form and materials.
- The requirements of the notice are as follows:
 - Step 1: Remove existing fibreglass columns and pilasters and make good underside of entablature, supporting entablature with temporary supports as necessary.
 - Step 2: Install Tuscan portico. Pedestals to be formed using suitable frost resisting facing bricks bedded upon a sand/cement/lime mortar. Pedestals to be rendered following installation of columns, pilasters, bases and capitals. Pedestal to be painted black after rendering complete. Shafts for columns to be constructed out of solid (softwood) timber core, with softwood collars and softwood vertical battens numbering 12 of equal dimensions. Shafts for pilasters of hollow 'ply' construction fixed to the wall by battens. Capitals and bases for columns and pilasters of matching construction. Existing entablature to be fully supported throughout assembly of replacement portico.
 - Step 3: Once installed, all softwood and joinery to be painted with undercoat and one coat of off white gloss.
- The period for compliance with the requirements is 9 months.
- The appeal is made on grounds (a), (c), (e) and (h) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) as amended.

Decision

1. The appeal is allowed to a limited degree on ground (h) only. Otherwise the appeal is dismissed on all other grounds and the Listed Building Enforcement Notice is upheld as corrected (see formal decision below).

Matters of clarification and background information

2. The appellant indicates that the LBEN refers to a '*replacement portico*' whereas only the '*columns and pilasters*' have been replaced. This is clearly the case and I shall, therefore, correct the notice accordingly. I am satisfied that this course of action will not cause any injustice to the Appellant or to the Council.

3. The 2 storey semi-detached appeal building is located on Church Walk, within the Long Melford Conservation Area (LMCA) and faces east towards an open space and a car park. The building was listed in Grade II in February 1978 and is described in the list description as a '*mid-late C19 grey gault brick front, possibly to an earlier building*'. The description also refers to the 3 window range, double hung sashes without glazing bars, stucco sills, a four panel door with rectangular fanlight and a

'Tuscan portico with plain columns and a cornice'. The building is one of a number of listed buildings in this part of the LMCA.

4. It has a detailed planning history, with various works having been granted planning permission (PP) and listed building consent (LBC) since 2001. These include various internal alterations; repairs to the slate roof and a conservatory. The alterations which are now the subject of this appeal were carried out to the appeal portico in 2005 and, in September 2009, LBC was refused (B/09/00355) for the retention of the alterations: namely the replacement fibreglass columns and pilasters. A subsequent appeal (APP/D3505/E/10/2120969/WF) was dismissed on 9 September 2010. For whatever reasons the LBEN was not issued until April 2016, a period of over 5 years since the previous appeal was dismissed. However, unlike in planning enforcement, where there are 4 year and 10 year limits for operational development and changes of use respectively, there is no time limit relating to when a LPA can take LBEN action.

The appeal under ground (c)

5. To be successful on this ground of appeal it must be successfully argued that the unauthorised works carried out have not altered the character of the listed building. In a ground (c) appeal the merits of the works are not considered. The question to be asked relates solely to whether or not the character of a listed building has been changed by the works. This is irrespective of whether or not such works have been harmful to the listed building.

6. In support of his case under this ground the Appellant contends that the works have not affected the character of the listed building because they are *'barely noticeable'*; that the canopy is a more *'prominent feature'* and that this has not been affected. The Long Melford Parish Council, a local councillor and others support the Appellant in these arguments.

7. However, from all of the evidence (including the previous appeal decision) and my inspection of the works, it is clear that the fibreglass (GRP) columns and pilasters differ from the originals in terms of their diameter and proportions. The previous Inspector described them as being *'noticeably thinner'* than the ones they replaced and that, due to this, they were less in keeping with the overall design of the portico. I do not accept that they are *'barely noticeable'*.

8. Whilst accepting that the changes in appearance are not so obvious from a distance, in terms of the material used (GRP), the sizing of the replaced elements have, in my view affected the scale and proportions of the original portico. I consider that the works executed have altered the character of the building to the extent that the changes are materially noticeable. As well as the columns and pilasters being different, the heads to the columns are out of scale and extend well beyond the entablature of the canopy (see below).

9. Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA), states that no person shall execute works which would affect the character of a listed building, as one of special architectural or historic interest unless the works are authorised. These works were not authorised and I have found that they do affect the character of No 9 Church Walk. It follows that the appeal must fail on ground (c).

The appeal on ground (a)

10. An appeal on this ground in essence challenges the listing and is normally made on the basis that the listed building is not of special architectural or historic interest. It effectively constitutes an application to the Secretary of State (SOS) to remove the

building from the list which he is empowered to do by section 41(6)(c) of the PLBCAA. In such situations the SOS is obliged to consult with Historic England (HE) and with such other bodies or persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest. The SOS will require professional advice as to why the '*listed building(s)*' are not of special historic or architectural interest.

11. The Appellant contends that the building possesses '*absolutely no special historic interest*'. Changes to walls, the roof, and the internal alterations are referred to and it is contended that the building '*by no stretch of the imagination*' can be said to be of importance in terms of its architectural design, decoration or craftsmanship: all being requirements under the '*Principles of selection for listed buildings*'. I disagree completely with these contentions. In my view, other than the changes to the portico, the building still possesses most of the architectural and historic qualities for which it was listed in the first instance.

12. In addition the Council indicates that HE recognises No 9 Church Walk as a historic asset. The building is listed (reference 1182519) and has been since 1978. It is still recognisable from its list description which referred to the '*Tuscan portico with plain columns and a cornice*'. The list description also refers to the '*group value*' of this and the other buildings in Church Walk and this emphasizes its importance in this part of the LMCA.

13. There is no detailed evidence from the Appellant to indicate why the property was not worthy of its listed status in 1978. Other than the references above to the changes carried out to the building, there is also no detailed professional evidence as to why the listing is no longer justified. In conclusion on this ground of appeal, therefore, I do not consider that there could have been any justification to de-list the building. From all of the submissions and from my site visit I consider that No 9 Church Walk still retains the character of a building of special architectural and historic interest. The appeal also fails, therefore, on ground (a).

The appeal on ground (e)

14. The main issue is the effect of the GRP columns and pilasters on the integrity and character of the listed building, on its setting; on its features of special historic and architectural interest and on the character and appearance of the LMCA.

15. Having seen the works as carried out I share the concerns of the LPA and the previous Inspector. As indicated by the previous Inspector, the materials of which a building is constructed are an integral part of its character. The plastic columns, pilasters and column heads look out of place and are incongruous and detract from the integrity and character of the building.

16. Although the GRP material is not so obvious from a distance, on closer inspection, and when walking past the house, the plastic finish is obvious. Of particular concern, in my view, is the scale of the column heads which hold up the entablature/canopy. These elements project well beyond the sides of the entablature and look completely out of scale and proportion with the canopy. When compared with those at No 8 (which line up with the entablature and canopy which they support), the ones at No 9 appear as crude and inappropriate features on the face of the listed building. The new structure is poorly designed and the column heads look completely out of place.

17. Having had special regard and paid special attention to sections 16(2) and 72 of the PLBCAA, I consider that the works as carried out do not preserve the character of the building or its setting. The out of scale elements also detract from the other

architectural and historic features of the listed building including the fine doorway and the window detailing. It follows that the works, in my view, neither preserve nor enhance this part of the Long Melford Conservation Area.

18. I conclude that that this rather crude attempt to replace the columns and pilasters is contrary to policies CS1 (Presumption in favour of Sustainable Development) and CS15 (Implementing Sustainable Development) of the Babergh Local Plan 2011-2031 (Core Strategies and policies) as well as being contrary to policies CN06 (Listed Buildings) and CN08 (Conservation Areas) of the Babergh Local Plan Alteration No 2.

19. I also find the works to be contrary to sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment) of the National Planning Policy Framework (NPPF). Although the works can be described as being 'less than substantial', in they have not resulted in the complete loss of the portico (see paragraph 134 of the NPPF), there are no public benefits which would outweigh the harm caused to these heritage assets (the listed building and the LMCA).

20. The LPA refused LBC for the works and so too did the previous Inspector. I can find no justification to grant LBC at this appeal stage. Thus the appeal also fails on ground (e).

The appeal on ground (h)

21. It is argued that because the LPA took four years to produce the replacement specification (LB/EN/CWLM/006) and even longer to deal with errors and omissions, a period of at least 5 years should be allowed as a compliance period instead of just 9 months.

22. Whilst acknowledging that the Council took such a long period to issue the LBEN, it has meant that the unauthorised works have remained in place far longer than might normally be the case where works are found to be unacceptable. However, in the overall circumstances of this case, I consider that the Appellant ought to be allowed a period in excess of 9 months. A period of 18 months would be a reasonable time for the planning and organising of the works and any necessary liaison with the Council.

23. I shall, therefore, vary the LBEN accordingly and the appeal succeeds to this limited degree on ground (h) only.

Other Matters

24. Following references in the Appellant's submissions to a previous specification for replacement works (LB/ENF/CWLM/006) I requested to see a copy. This was sent to me by the Council via the case officer and I have noted that the document comprises construction notes; plans, sections and an elevation all at a scale of 1:10. However, the Council has made it clear that this had not been included in their submissions and that it had been made clear to the Appellant that he did not need to carry out the works as described in the construction notes document.

25. The Council did make clear that the Appellant is required to comply with the requirements of the notice and is of the view that the requirements adequately indicate what is required to remedy the situation. Having carefully considered the wording of the requirements and in the light of the planning history, I agree with the Council and consider that the requirements are sufficiently worded to enable the remedial works to be carried out. In any case the Appellant can still liaise with the Council regarding the monitoring of the works required and it would appear that the Council would be amenable to this course of action.

26. In reaching my conclusions on all of the grounds of appeal, I have taken into account all of the other submissions. These include the full planning history; the previous appeal; the initial statements; subsequent details; the final submissions; the letter of support for the Appellant from the local councillor and the support of others. However, none of these carries sufficient weight to alter my conclusions on the grounds pleaded and nor is any other factor of such significance to change my decision that listed building consent should not be granted for the unauthorised works as carried out.

Formal Decision

27. I direct that the LBEN be corrected by adding the words '*of columns and pilasters to the*' before the word '*portico*' in part 3 (the allegation) to the notice.

28. The appeal is allowed in part on ground (h) only and I direct that the notice be varied by deleting the number '9' after the words '*the period of*' in part 3 of the notice and by substituting, therefor, the number '18'.

29. Otherwise the appeal is dismissed, the LBEN is upheld as corrected and varied and listed building consent is refused for the works carried out in breach of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector