
Appeal Decisions

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: 10 February 2017

Appeal A - Ref: APP/R2520/F/16/3147352

Thorpe House, Ewerby Thorpe, Sleaford, Lincolnshire NG34 9PR

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Mandy Rodger against a listed building enforcement notice (LBEN) issued by North Kesteven District Council (LPA).
 - The enforcement notice was issued on 8 March 2016.
 - The contraventions of listed building control alleged in the notice are as follows:
 - (a) Works to the rear (Northern) elevation:
 - i. Installation of UPVC windows.
 - ii. Installation of additional window on rear extension.
 - iii. Installation of additional window on outbuilding.
 - iv. Installation of three rooflights.
 - v. Installation of flue.
 - (b) Works to the side (Eastern) elevation:
 - i. Installation of one rooflight.
 - ii. Installation of two UPVC windows on outbuilding.
 - iii. Link extension between front and rear of building not recessed.
 - iv. Window installed in link out of accordance with approved plan reference 'KO5' attached at Annex C to this notice.
 - v. Use of blockwork on wall between building and proposed conservatory.
 - vi. Repointed mortar does not match existing.
 - vii. Installation of UPVC door instead of window to ground floor.
 - (c) Works to the front (Southern) elevation:
 - i. Garage door not in accordance with approved plan reference 'KO5' attached as Annex C to this notice.
 - ii. Roof profile of outbuilding not in accordance with approved plan reference 'KO5' attached as Annex C to this notice.
 - (d) Works to the side (Western) elevation:
 - i. Glazed link between front and rear parts of the building is framed in UPVC.
 - ii. Substitution of a UPVC window for an external door on outbuilding.
 - iii. Installation of UPVC window and door on outbuilding.
 - iv. Installation of flue.
 - v. Cream render applied to chimney stacks on roof.
 - (e) Other works to the building:
 - i. Installation of plastic rainwater goods.
 - The requirements of the notice are as follows:
 - (a) Remove all rooflights from the building.
 - (b) Remove all plastic rainwater goods from the building.
 - (c) Remove the UPVC glazed link window on the western elevation of the building.
 - (d) Remove all UPVC windows and doors on the building with the exception of the windows described in paragraphs 3(a)(ii) and 3(d)(ii) of this notice.
 - (e) Replace the UPVC windows described in paragraphs 3(a)(ii) and 3(d)(ii) of this notice with timber framed windows in accordance with the details submitted to the Council on 06 May 2010 attached to this notice as 'Annex D'.
-

- (f) Replace the UPVC window described in paragraph 3(b)(iv) of this notice with a timber window to the specification shown on the plan submitted to the Council on 15 December 2015 reference 'LHC014-PL-03A' attached to this notice as Annex E.
 - (g) Remove the UPVC door installed at the southern end of the Eastern elevation.
 - (h) Remove the garage door located on the Southern elevation.
 - (i) Paint the render on the chimneys visible on the roof of the Western elevation of the building to match the colour of the red brickwork on that elevation.
 - (j) Remove the flue installed on the roof of the Western elevation.
 - The period for compliance with the requirements is 6 (SIX) years.
 - The appeal was initially made on grounds (a), (c), (e) and (f) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (see paragraph 6 below).
-

Appeal B - Ref: APP/R2520/W/16/3147269

Thorpe House, Ewerby Thorpe, Sleaford, Lincolnshire NG34 9PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission (PP).
 - The appeal is made by Mrs Mandy Rodger against the decision of North Kesteven District Council (LPA).
 - The application Ref 15/1351/HOUS dated 11 November 2015 was refused by notice dated 12 January 2016.
 - The development proposed was: Removal of extension, amendments to windows and doors and construction of a conservatory.
-

Appeal C - Ref: APP/R2520/Y/16/3147221

Thorpe House, Ewerby Thorpe, Sleaford, Lincolnshire NG34 9PR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent (LBC).
 - The appeal is made by Mrs Mandy Rodger against the decision of North Kesteven District Council (LPA).
 - The application Ref 15/1352/LBC, dated 11 November 2015 was refused by notice dated 12 January 2016.
 - The works proposed are: Removal of extension, amendments to windows and doors and construction of a conservatory.
-

Decisions

1. All three Appeals A, B and C are allowed in part and dismissed in part. The LBEN is upheld as corrected and varied. See formal decisions below.

Costs Application

2. An application for a full award of costs has been made by Mrs Mandy Rodger against North Kesteven District Council. This is the subject of a separate decision.

The various works, the subjects of the appeals and the grounds pleaded

3. During the site visit the physical nature of the works relating to each appeal were clarified and agreed. I have set out below matters of clarification for each appeal.

Matters of clarification

Appeal A – Against the issue of The Listed Building Enforcement Notice (LBEN)

Introduction

4. With regard to the UPVC rainwater goods, the LPA acknowledges that there has been an error, in that these were described as such in the 2008 applications for PP and LBC. I shall, therefore, correct and vary the notice by removing the references to this

element of the alleged unauthorised works in sections 3(e)(i) and 5(b) of the LBEN. I am satisfied that no injustice will be caused by this correction/variation.

5. On behalf of the Appellant it is confirmed that some of the works set out in the allegation (section 3) and the requirements (section 5) are not contended. These are item 5(f) referring to item 3(b)(iv); the UPVC window to the right of the glazed screen on the first floor of the east elevation to be replaced with timber (as shown on dwg LHC014-PL-03A; item 5(g), UPVC door (door already timber – but see below) and item 5(i), painting the pair of stacks. I have noted these points and also note that all of the other items set out in sections 3 and 5 of the notice are contended (appealed against). I have dealt with Appeal A on this basis.

6. On the LBEN appeal form, on behalf of the Appellant, boxes (a), (c), (e) and (f) had been ticked in relation to the initial grounds pleaded. However, there had been some confusion regarding the grounds and it is now confirmed that the grounds pleaded are (a), (e), (g) and (h). The appeal on ground (g) – that the notice exceeds what is necessary for restoring the building to its condition before the works were carried out – relates to the rainwater goods which I have referred to above.

7. However, most of this part of the case for the Appellant (set out as Statement of Appeal – Ground F – now ground (h)) refers to matters not relating to ground (h). These include background information; planning history; other issues with the LBEN; the alleged breaches and what is required. There is only one part, paragraph 9, which refers to the 'Compliance Period' whereby ground (h) is correctly pleaded. I deal below (paragraphs 8 to 12) with the matters not related to the ground (h) appeal.

Enforcement Notice issues

8. It is contended that the LBEN does not comply with section 38(2) of the PLBCAA in that 7 of the 10 requirements in section 5 give no specific instruction as to what is required of the owner. I disagree. A full reading of the LBEN, including section 4(2), makes it quite clear that it was issued in order to remove the unauthorised works and alterations and to revert back, where appropriate, to the PP and LBC granted by the Council in 2008.

9. Thus the Council is requiring that the steps required to be taken are steps which are necessary to bring the building to the state in which it would have been if the terms and conditions of the LBC had been complied with in the first instance. The LBEN was, therefore, effectively issued under section 38(2)(c) as opposed to 38(2)(a) or 38(2)(b). It is on this basis that I have dealt with appeal A and again I am satisfied that this will not cause any injustice. Although there are other queries raised on behalf of the Appellant, I consider that the LBEN clearly indicates what has been done in contravention of the PLBCAA and what is required. I consider that it is a valid notice for the purposes of section 38 of the PLBCAA.

10. With regard to some of the works in section 5(d) specifying works which do not appear in section 3, I note that sections 3(a)(i); 3(b)(ii); 3(d)(ii); 3(d)(iii) allege the installation of UPVC windows in the northern, eastern, southern and western elevations respectively. In section 5(c), the requirement is to remove the glazed link window on the western elevation. Section 5(d) requires removal of all UPVC windows (and doors) with the exception of those at 3(a)(ii) and 3(d)(ii). The reference to doors being removed must, in my view, also relate to the UPVC door in the east elevation (northern end as opposed to southern end) and not to the timber door at the southern end which had been behind the portacabin (now removed). I shall correct the notice by changing 3(b)(vii) and varying 5(g) to reflect the situation.

11. Section 5(e) requires the UPVC windows at 3(a)(ii) and 3(d)(ii) to be replaced with timber framed windows in accordance with the details submitted to the Council on 6 May 2010 (Annex D to the LBEN). Section 5(f) next requires that the UPVC windows set out in section 3(b)(iv) be replaced with a timber window to the specification set out on dwg LHCO14-PL-03A).

12. Taking all of the above requirements into account and reading the LBEN in full, I consider that, although complicated, it clearly sets out the alleged unauthorised works and equally indicates what, in the LPA's view must be done in order to comply with the LBEN. On behalf of the Appellant a valid appeal has been made and again I am satisfied that in dealing with the LBEN on its face, no injustice will be caused either to the Appellant or the LPA. In reaching this conclusion I have had regard to Planning Policy Guidance (PPG) and consider that the requirements set out at 019 Reference ID: 17b-019-2014036 are met.

Works not included in the LBEN

13. With regard to elements of outstanding works or matters not covered by the LBEN these are not before me. I am only empowered to deal with the LBEN as issued and on the grounds pleaded. Any additional works required, either by the Council or to be considered by the Appellant would be for the parties to resolve.

Appeal B: Against the refusal of Planning Permission (PP)

14. The application for PP, under section 3, described the proposed works as '*Removal of extension, amendments to windows and doors and construction of a conservatory*'. This was dealt with under application No 15/1351/HOUS and the Council amended the description to read '*Removal of extension, amendments to windows and doors and erection of a conservatory (part retrospective in relation to various works including upvc link windows and doors and guttering)*'. It was agreed at the site visit that the '*extension*' referred to in the application must have been a reference to another outbuilding which had been sited to the rear of the house.

15. The Council's reason for refusal referred to '*rooflights, rendered chimney stacks, metal flues, plastic rainwater goods and Upvc windows*'. It did not refer to the conservatory although the application drawing (LHC0 14-PL-03A) did refer to it, as well as to the rendered chimney stacks and the metal flue.

16. During the site visit the physical matters relating to Appeal B were indicated to me and it was confirmed that the LPA did not object to the conservatory as shown on the drawings. It has since been indicated that for technical reasons the conservatory cannot be completed. Be that as it may I must deal with Appeal B on the basis of the application. Thus I have considered whether or not all of the works indicated on the proposed drawing should be granted PP. These works include the '*rooflights, rendered chimney stacks, metal flues, plastic rainwater goods and Upvc windows*'. In dealing with the appeal on this basis, I am satisfied that no injustice will be caused either to the Appellant or the LPA.

Appeal C: Against the refusal of Listed Building Consent (LBC)

17. The application for LBC (15/1352/LBC) also described the proposed works as '*Removal of extension, amendments to windows and doors and construction of a conservatory*'. Again the Council's reason for refusal referred to '*rooflights, rendered chimney stacks, metal flues, plastic rainwater goods and Upvc windows*'. It did not refer to the conservatory but, as indicated above, proposed dwg LHC014-PL-03A did refer to it, as well as to the rendered chimney stacks and the metal flues.

18. For the same reasons a set out above in paragraphs 14, 15 and 16 above, I have considered whether or not all of the works indicated on the proposed drawing should be granted LBC. Again in dealing with the appeal on this basis, I am satisfied that no injustice will be caused either to the Appellant or the LPA.

Background information

The listing and basic description

19. Thorpe Hall was listed in Grade II in October 1988 and, despite the alterations carried out since then, is still recognisable from its list description. This indicates that it was a former Rectory built around 1820 and that it was altered in the mid C19th and C20th. At the time of listing the roof was of concrete tiles (since changed back to slate) and it had a red/brown brick frontage; a central panelled door with fanlight; an open pedimented Doric door case with stone pilasters; a full height canted bay window and plain sashes to the 3 first floor windows. These are all still in place.

20. The C20th alterations are not referred to in the listing but photographic evidence indicates that before 2008 there was a projecting rear wing which, together with the frontage, formed a typical 'T' Plan arrangement found in Georgian houses. This rear wing was not original but was pre-1948 as was a separate outbuilding. In 2008, by which time the rear wing had suffered some structural failure, PP and LBC were granted for its demolition and replacement. The history is set out in section 3 of the Appellant's 'Assessment of Significance' dated November 2015.

21. In summary this indicates that the original 'T' Plan was in the Regency villa style; that the pattern of fenestration would have been Georgian sash windows; that it was substantially altered between 1888 and 1906; that it had been extended to include service and ancillary buildings; that it had been reduced almost to its original size by 1947; that between 1947 and 1970 the rear wing had been replaced and that the post 2008 approval extended the original footprint by almost double the 1906 size.

The history since the Appellant became owner

22. Together with her husband (now deceased) the Appellant became the owner of the listed building in 2008 which, as indicated above, was in a poor state of repair. LBC (08/2231/LBC) was granted to replace the concrete roof tiles with reclaimed Welsh slate. Later LBC and PP (08/2274/LBC and 08/0837/FUL) were granted for demolition of the existing rear extension and its replacement with a larger addition. These works commenced in 2009 but were not complete by the time of the Appellant's husband's death in 2013.

23. A Contractor was then employed by the Appellant to complete the works. Unfortunately, for whatever reasons, the works did not comply with the approval and consent and no amendments had been sought. The Council then advised that new PP and LBC applications be made. These are the applications which are now the subject of Appeals B and C made in December 2015 (15/1351/HOUS and 15/1352/LBC) both of which were refused in January 2016. The Appellant was then notified that the Council was minded to take LBEN action, advising that this did not alter the right to appeal the decisions.

24. The actual assessment of the significance of the house (produced in relation to the PP and LBC applications of 2015) is set out in section 4 of the Assessment of Significance statement and this is done by following the Conservation Principles, published by English Heritage (EH) in 2008. I agree with the conclusions relating to the significance of the various parts of the building (set out in tabular form on pages 14 to 17 of the statement), as well as agreeing to the summary at 5.1. In particular

that the remaining original front wing of the house is clearly of high significance but that the two storey rear extension is of limited heritage significance.

25. The original front wing of the house is the key to sustaining the historic and architectural significance of the building but I agree that, as part of the listed building, the unauthorised works, (not undertaken in accordance with the approved plans) have further detracted from the areas of significance, especially where they relate directly to the 1820, or thereabouts, front elevation and main section of the house. These works are listed in section 6 as '*Unauthorised and other works*' and I agree with the points set out from 'a' to 'k'.

26. At section 7 the statement refers to '*Proposed works of Regularisation and impact upon significance*'. Again these are set out in tabular form on pages 21 to 25 of the statement and I have taken them into account in reaching my conclusions in all three appeals. I have noted that most of the works carried out, which are not in accordance with the approved plans, were carried out by a contractor who had misinformed the Appellant on the planning aspects of the works.

27. The planning history (and particularly what has been granted PP and LBC since listing) is a major material consideration. In my view, following listing the 2008 permission and consent resulted in a marked detraction from the original character of Thorpe House. The result of this rear 2008 extension (irrespective of the type of doors and windows installed) has in my view, left only the front section of the building retaining its special architectural and historic features.

28. I consider, therefore, that the PP and LBC in 2008 set an unfortunate precedent for what might, or might not be, considered as being acceptable future alterations to windows, doors and other external elements of Thorpe House. It also set a precedent with regard to how future works might affect the character of the listed building. Having seen the building and having noted the unauthorised works I consider that the front wing remains the only significant element in defining and understanding what remains of the architectural and historical features of Thorpe House. The planning history is thus material to my decisions in these appeals.

Appeal A on ground (a)

29. 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 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 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.

30. The SOS will require professional advice as to why the '*listed building*' is no longer of special historic or architectural interest. In this case it is argued that due to the large extension which has been added, together with the garage and outbuilding (2008 approval), the building is now of a '*muddled style*' compared with the elegant classical design of the original house. It is stressed that the extension approved in 2008 is certainly not of special architectural merit to warrant being covered by the status of listing.

31. Reference is made to the overbearing scale, size, mass and siting of the 2008 extension and, under a section entitled '*Historic Plan Form and Local Distinctiveness*', it is argued that the hierarchy of design relating to a subsidiary extensions, doors and windows has not been followed. PPG15 guidance (now superseded) is referred to and

the fact that the extension fails to respect the required architectural principles of the 1820s original range.

32. It is indicated that the reason for allowing the extension is seemingly based upon a 1906 OS plan, but it is also argued that the scheme which was allowed by the LPA in 2008 led to unsurmountable problems of construction. Whether or not the LPA consulted correctly, in relation to the approval of the 2008 scheme, is also queried. However, this is not material to my considerations at this time.

33. Overall, therefore, and for a variety of other reasons in addition to those outlined above, it is contended that the extension to Thorpe House is not of special architectural or historic merit. Having seen the works as allowed in 2008, I agree that, in themselves, they detract from the integrity and character of the listed building, as well as harming its setting. Putting aside the question of the materials used, I consider that the form, scale and positioning of this extension has not conserved or enhanced this historic asset.

34. However, the extension was granted PP and LBC, albeit not with the various elements and materials now enforced against. In my view, any further works must be considered in the light of what has been allowed by the LPA. That said I still consider that overall, the house remains worthy of its listed status. The southern elevation remains more or less unscathed and is still clearly recognisable from the list description and can be seen from the public road.

35. In my view, despite the harmful scale and proportion of the 2008 permitted scheme, I consider that because of its attractive and original front (southern elevation) Thorpe House should remain on the list of buildings of special architectural and historic interest. When seen from the driveway approach the frontage and side elevation (east) are still distinctly noticeable. Apart from the UPVC link and the flue, the west elevation (despite the extension) is also acceptable when seen against the front section of the house. In conclusion, therefore, on this ground of appeal I consider that the listed Thorpe House is still worthy of its listed status and I do not consider that the SOS should be recommended to remove it from the statutory list. The appeal fails, therefore, on ground (a). Note: a ground (a) appeal cannot be made on the basis that just part of a listed building should be removed from the list.

Appeal A on ground (e)

36. In considering whether or not LBC should be granted for the unauthorised works as set out in the LBEN, I have taken the items which are still contended by the Appellant and considered each item/element in the same order as set out in section 8 of the Statement of Appeal – Ground (e).

37. In relation to each element I have taken into account the relevant policies set out in the Council's statement. These are saved policies C18 (Design) and HE6 (Extension, alteration or change of use of a listed building) of the North Kesteven Local Plan. I have also had regard to sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment) of the National Planning Policy Framework NPPF and to relevant sections of Planning Practice Guidance (PPG). Because Thorpe House is listed in Grade II I have had special regard to sections 66(1) and 16(2) of the PLBCAA.

38. The main issues in relation to the various works carried out are the effects that they have had on the integrity and character of the listed building; the effects on the setting of the building and the effects on its features of special architectural and historic interest. I now turn to the works carried out.

The roof lights

39. There are four roof lights which are enforced against: three in the north facing roof of the rear extension and one in the east facing hip of the same extension. Having seen them in situ I do not consider that the three in the north facing roof are harmful in any way to the character and integrity of the listed building. The fact that they are in the 2008 extension, rather than in the original roof, in my view, lessens the effect that they have had on the original character and historic significance of Thorpe House.

40. The three roof lights cannot be seen from the approach driveway and nor can they be seen in conjunction with the special architecturally and historically interesting front (southern elevation) of the house. The Historic England (HE) guidance – '*Making Changes to Heritage Assets*' acknowledges that, although elements such as roof lights can adversely affect a building's significance, harm might be avoided if roof lights are located on less prominent roof slopes.

41. In this case, not only are the rooflights on the least prominent roof slope, they are also fixed to the 2008 extension which, in my view, is not in itself of architectural or historic significance. I do not consider, therefore, that they harm the significance of this altered heritage asset and LBC will be granted for their retention. The LBEN will be varied accordingly and Appeal A on ground (e) succeeds with regard to these three rooflights.

42. However, I find that the single roof light in the east facing hip does detract from the character of the building. Small as it may be, it can be seen in conjunction with the important front elevation as well as the rest of the roof, including the brick chimneys. As such it appears as an alien and obtrusive feature to the roofscape. Again, although small, I consider that it is harmful to the integrity and character of the listed building. I do not consider, therefore, that LBC should be granted for its retention in this location and Appeal A fails on ground (e) with regard to this particular rooflight.

The UPVC glazed link window on the west elevation

43. I acknowledge that this is a modern intervention and that, other than a change in material, it was granted PP and LBC by the LPA. However, having seen it in context, I consider that it does detract from the character of this part of the building. Although it cannot be seen directly from the front of the building, all of the other windows on the west elevation are timber. The UPVC link appears obtrusive and out of place and I do not consider that UPVC paint would resolve the issue. I conclude on this element, therefore, that it is harmful to the building and that LBC should not be granted for this particular link. Appeal A on ground (e) therefore fails in relation to this element of the works as carried out.

Removal of all UPVC windows and doors

44. Having inspected all of the elevations, and bearing in mind my findings above on the lack of architectural and historic significance of the 2008 permitted extension, I do not consider that the UPVC windows and doors on the north elevation have harmed the remaining integrity, character or setting of Thorpe Hall. The 2008 extension, in my view, clearly detracted from the original house. But it looks like what it is: a modern pseudo-Georgian addition to the listed building.

45. The fact that this north elevation now has UPVC windows hardly affects the overall impact of the inappropriate 2008 extension. In terms of form and scale it looks out of place with the front section of the house. However, the north facing windows are not in a prominent location and it is impossible to see them in

conjunction with the other three elevations. Nor can they be seen from any public viewpoint.

46. Clearly the fact that they cannot be seen together with the other elevations cannot, in itself, be justification for what would normally be inappropriate materials for a listed building. However, in the overall context of this case it is my view that the UPVC windows to the northern elevation are not significantly harmful to the character of the building or its setting. Nor do they harm any of the other important remaining special architectural and historic features of the listed building. I consider, therefore, that LBC should be granted for their retention. For the same reasons I consider that the door and windows to the west and north elevations of the outbuilding/garage are also acceptable. Appeal A on ground (e), therefore succeeds in relation to these UPVC windows and the door.

47. Turning to the east elevation, item 5(f) is not contended and it is accepted that the glazed screen should be timber. It is also accepted that the UPVC window at first floor level on this elevation should also be replaced with a timber window. I agree that these two windows should be timber windows. The UPVC screen and window detract markedly from the front of the building, against which they can be seen when approaching the house and from the gateway. Thus LBC will not be granted for the screen and window as fitted. These two elements were part of the PP and LBC applications and I consider that the proposals therein are acceptable.

48. Finally I consider that the UPVC door at the northern (not southern) end of the east elevation is harmful to the architectural and historic significance of the listed building. I acknowledge that this door had been confused with the permitted timber door closer to the front of the house but it is evident to me that this door would not have been excluded from other UPVC windows and doors which were required by the LBEN.

49. As indicated above I do not consider that any injustice has been caused by dealing with this door on the same basis as the other unauthorised windows and doors. The door can be seen in conjunction with the frontage, especially if the conservatory is not built, and I do not consider, therefore, that LBC should be granted for its retention. In any case in the PP and LBC 2015 applications it is proposed to change this UPVC door to the kitchen with a timber door. I shall vary the notice accordingly and Appeal A on ground (e) fails with regard to this door.

Removal of the garage door

50. The garage door as fitted in my view is significantly harmful to the listed building. It is seen against the frontage of the house and has the appearance of a modern up and over residential estate garage door. It is significantly detrimental to the integrity, character and setting of Thorpe House. The Council would not have granted PP and LBC in the first instance and there can be no justification in granting LBC at this appeal stage. With regard to this item, therefore, Appeal A on ground (e) must fail. In any case the appellant now proposes that consent be granted for a replacement timber door which accords with the dwg LHC014-PL-03A. Again, therefore, I shall vary the LBEN accordingly.

Roof profile outbuilding/garage

51. Having noted the changes from what had been granted LBC in 2008, I do not consider that this element of the works has detracted from the character, integrity, setting and special features of the listed building. I consider that these works preserve the listed building and Appeal A on ground (e) succeeds in respect of the changed roof profile of the outbuilding and garage.

The flue on the western elevation

52. When viewed from both near and distant viewpoints this flue appears as an alien and obtrusive addition to the slated roof. It looks completely out of place when seen against the traditional construction of the chimneys. I acknowledge that a stack of some sort was granted approval but it is evident that this was not such a crude single pipe black flue. I have noted the discussions which took place regarding a replacement chimney and it may well be that a lawful chimney could be built which accords with the approved drawings of 2008. However, that does not justify the retention of this flue which harms the integrity, character and roofscape of the listed building. LBC will not be granted for its retention and Appeal A fails on ground (e) in relation to this item.

53. The LBEN simply requires that unauthorised flue is removed. What replaces it is not a matter for consideration with regard to the notice. If the parties cannot agree to a specification for a chimney, which would accord with the previous consent, then it would be necessary for a further LBC application to be made. That would also be the case for any other works which are not covered by the notice or the grounds of appeal. Where appropriate I have varied the notice in accordance with my conclusions on the works as carried out.

Remaining elements

The allegation and requirement for the UPVC rainwater goods

54. For the reasons set out in the Statement of Appeal, I accept that the authorised state of Thorpe House includes the UPVC rainwater goods as fitted to the building. This is acknowledged in the Council's statement and I shall vary the LBEN accordingly. There is, therefore no need to consider whether or not these works should be granted LBC.

The render to the chimney

55. This requirement is not contended by the Appellant. However, I do not consider that this element of works is harmful to the character, setting or special architectural or historic features of Thorpe House. The notice will be varied, therefore, to remove the requirement relating to the render. Appeal A on ground (e) succeeds in relation to this part of the works.

Appeal A on ground (g)

56. From my reading of the submissions it would appear that the only element of works contended on ground (g) is the UPVC rainwater goods referred to above. A ground (g) appeal 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. Clearly to require the UPVC rainwater goods to be removed does exceed what is required, since these works were authorised by the 2008 PP and LBC. Appeal A succeeds, therefore, on ground (g) with regard to this item of works and the LBEN will be varied accordingly.

Appeal A on ground (h)

57. I can understand and sympathise with the predicament in which the Appellant now finds herself and note that due to the works required to be carried out and the expense involved a compliance period of 12 years is requested. However, I find that the LPA compliance period of 6 years is already very generous. Considering that the notice will be varied requiring significantly less works to be carried out in order to comply with the LBEN, I consider that a 6 year compliance period is more than enough in this particular case. The appeal fails, therefore, on ground (h).

Conclusions on Appeal A

58. For the reasons set out above, I have found certain elements of the work to be acceptable or, in the case of the UPVC rainwater goods, to be authorised. I consider that the works considered to be acceptable accord with saved policies C18 and HE6 of the North Kesteven Local Plan as well as with sections 7 and 12 of the NPPF and relevant sections of PPG. As indicated I have had special regard to section 16(2) of the PLBCAA and I am satisfied that, in relation to these works the character, setting and architectural and historic features of Thorpe Hall will be preserved. The unauthorised works which I have found to be acceptable will be granted listed building consent. Where the works relate to the non-contended items (other than the rendered chimney) I have taken into account the alternative specifications and/or variations put forward on behalf of the Appellant by referring to the approved drawings (see formal decision below).

Appeals B and C

59. As indicated above I have dealt with Appeals B and C on the basis of the drawings submitted for applications 15/1351/HOUS (PP) and 15/1532/LBC (LBC). The proposals mostly overlap with the alleged unauthorised works set out in the LBEN. Clearly the LBEN did not refer to the conservatory but in dealing with Appeals B and C, I must consider the applications as submitted and as decided by the LPA.

60. The main issues in Appeals B and C are the effects that the various proposals would or have had on the integrity and character of the listed building; the effects on its setting and the effects on its features of special architectural and historic interest. Clearly most of the works as set out in the applications relate to what has been enforced against. My findings and conclusions where the works correspond are the same as above (in Appeal A) with regard to the respective works. Where the works are different or in addition to what has been enforced against (for example the conservatory) I refer to them below.

61. On the basis of what is set out on proposed dwg LHC014-PL-03A (including specifications where appropriate), I consider that the following works would preserve the character, setting and special architectural and historic features of Thorpe House and accord/would accord with saved policies C18 and HE6 of the North Kesteven Local Plan; sections 7 and 12 of the NPPF and relevant sections of PPG. As indicated I have had special regard to sections 66(1) and 16(2) of the PLBCAA and I am satisfied that in relation to the works listed below the character, setting and architectural and historic features of Thorpe Hall will be preserved. I consider, therefore, that these works should be granted PP and LBC:

1. Retention all of the UPVC windows on the north elevation (see above reasons in Appeal A)
2. Retention of the UPVC French doors and balcony on the north elevation (see above reasons in Appeal A).
3. Retention of the UPVC windows in west and north elevations of garage and outbuilding (see above reasons in Appeal A).
4. Replacement of UPVC glazed screen (first floor east elevation) with timber sash and case window to match existing timber windows in south elevation (see reasons below).
5. Replacement of UPVC windows to garage with timber side-hung casement windows (see reasons below).
6. Retention of render to existing chimneys (see reasons below).
7. New timber garage doors as indicated on application dwgs (see reasons below).

8. New timber conservatory as indicated on application dwgs (see reasons below).
9. New 6/6 vertical sliding sash window to living room east elevation (see reasons below).
10. Replacement of UPVC kitchen door to east elevation (see above reasons in Appeal A).
11. Render to exposed blockwork to garage and rear outbuilding.

62. My reasons regarding the acceptable items 1, 2 and 3 are set out in Appeal A above. With regard to items 4 and 5, I have concluded that UPVC screen and garage windows as installed are harmful and should be removed. It is accepted by the appellant that the UPVC screen and window to the east elevation will be replaced with timber windows. Having seen these on the application drawings I am satisfied that they would preserve the listed building.

63. Similarly items 6, 7, 8, 9, 10 and 11, all of which were part of the 2015 applications would, in my view, also be appropriate and acceptable and would preserve the listed building, its setting and its special architectural and historic features. The elements on the east elevation are of particular note because they can be seen in conjunction with the (southern elevation) of the house.

64. On the other hand and for the same reasons as set out in Appeal A, I consider that the following works would be detrimental and significantly harmful to the character, setting and special architectural and historic features of Thorpe Hall. PP and LBC will, therefore, be withheld for the works as follows:

1. Retention of the black flue on the west elevation.
2. Retention of the UPVC glazed screen to the west elevation.
3. Retention of the single rooflight to the rear hip roof of east elevation.
4. Retention of the UPVC windows to east elevation of garage.

Overall conclusions on Appeals B and C

65. I have set out what I have found to be acceptable and not acceptable with regard to the PP and LBC applications/appeals. I shall, therefore, issue split decisions in relation to these appeals. On the basis of all of the submissions and my inspection of the works as carried out, I consider that my decisions, taken together, should now enable compliance with the corrected and varied LBEN. My decisions should also make it possible to carry out the specific works as granted and consented in accordance with the submitted PP and LBC applications.

66. I acknowledge that some of the works granted PP and LBC (including the conservatory) may not be constructed, but I cannot alter what is before me in terms of the LBEN Appeal and the PP and LBC applications. It may well be that there will still be some uncertainties if the PP and LBC hereby granted approval and consent are not fully implemented in accordance with the applications. For instance, if the conservatory is not built, other applications would be necessary relating to, for example, the treatment of the exposed blockwork wall in the more prominent east elevation. Any such matters would require the Appellant to liaise with the LPA, especially bearing in mind the complexity of the planning history and the unauthorised works carried out.

Other matters

67. In reaching my conclusions in all three appeals I have taken into account all of the other points raised on behalf of the Appellant and by the Council. These include the full and complex planning history; the initial statements relating to all three appeals; all matters covered in the Design and Access statement and Assessment of

Significance of Thorpe House; references to a previous appeal decision; the 2008 photographic submissions; the statements in relation to the grounds pleaded (as amended); the Councils statement dated June 2016 and the final comments submitted on behalf of the Appellant.

68. However, none of these carries sufficient weight to alter my conclusions on the grounds pleaded in Appeal A or on any matter relating to Appeals B and C. Nor is any other factor in any of these appeals of such significance so as to change my split decisions as set out below.

Formal Decisions

69. These decisions need to be read in conjunction with each other to establish what has been granted PP and LBC and what has been refused. These decisions do not relate to any other works which fall outside those set out under each appeal decision below. Such works would need to be the subject of liaison, agreement, and formal application(s) (where required) between the LPA and the Appellant.

Appeal A: The LBEN Appeal

70. I direct that the LBEN be corrected by deleting section 3(e)(i) in part 3 of the notice (THE BREACH OF LISTED BUILDING CONTROL).

71. I direct that the LBEN be corrected by deleting section 3(b)(vii) as drafted in part 3 of the notice (THE BREACH OF LISTED BUILDING CONTROL) and by substituting a new section 3(b)(vii) to read *'installation of a UPVC door in the eastern elevation at its northern end (entrance door to kitchen)'*.

72. The Appeal is allowed in part on ground (e) and listed building consent is granted for the following works at, Thorpe House, Ewerby Thorpe, Sleaford NG34 9PR:

- (a) *Works to the rear (Northern) elevation:*
 - i. *Installation of UPVC windows (and French doors/balcony)*
 - ii. *Installation of additional window on rear extension*
 - iii. *Installation of additional window on outbuilding*
 - iv. *Installation of three roof lights to roof*
- (b) *Works to the side (Eastern Elevation).*
None of the items i to vii set out in the LBEN are granted LBC
- (c) *Works to the front (Southern) elevation*
 - ii. *Roof profile of outbuilding/garage*
- (d) *Works to the side (Western) elevation*
 - ii. *Substitution of a UPVC door on outbuilding*
 - iii. *Installation of a UPVC door and window on outbuilding*
 - iv. *Cream Render applied to chimney stacks on roof*

73. I direct that the LBEN be varied as follows:

1. By the deletion of the words *'all rooflights'* in section 5(a) of Part 5 (WHAT YOU ARE REQUIRED TO DO) and by the substitution therefor of the words *'the rooflight on the east facing hip of the rear extension roof'*.
2. By the deletion in full of requirement 5(b) of Part 5.
3. By the deletion in full of requirement 5(d) of Part 5 as drafted and its substitution by a new requirement 5(d) to read as follows: *'Remove all UPVC doors windows and screens on the eastern and western elevations of the main house and on the eastern elevation of the garage'*.
4. By the deletion in full of requirement 5(e) of Part 5.
5. By the deletion of the word *'Southern'* before the words *'end of the Eastern elevation'* in 5(g) and the substitution therefor of the word *'Northern'*.
6. By the deletion in full of requirement 5(i) of Part 5.

74. For the avoidance of doubt, requirements 5(b), 5(e) and 5(i) are deleted in full; requirements 5(a), 5(d) and 5 (g) are varied and requirements 5(c), 5(f), 5(h) and 5(j) remain as drafted in the LBEN as issued.

75. Otherwise, Appeal A is dismissed and the LBEN is upheld as corrected and varied. Listed building consent is refused for the remaining unauthorised works, carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Appeal B; The Planning Appeal

76. The appeal is allowed in part and dismissed in part.

77. The appeal is allowed in respect of the works listed below and planning permission is granted for '*Removal of extension, amendments to windows and doors and construction of a conservatory*' at Thorpe Hall, Ewerby Thorpe, Sleaford NG34 9PR. The works granted approval are as follows:

1. Retention all of the UPVC windows on the north elevation.
2. Retention of the UPVC French doors and balcony on the north elevation.
3. Retention of the UPVC windows in west and north elevations of the garage and outbuilding.
4. Replacement of UPVC glazed screen (first floor east elevation) with timber sash and case window to match existing timber windows in south elevation
5. Replacement of UPVC windows to east elevation of garage with timber side-hung casement windows.
6. Retention of render to existing chimneys.
7. New timber garage doors as indicated on dwg LHC014-PL-03A.
8. New timber conservatory as indicated on dwg LHC014-PL-03A.
9. New 6/6 vertical sliding sash window to living room east elevation as indicated on dwg LHC014-PL-03A.
10. Replacement of UPVC door to east elevation with timber door as indicated on dwg LHC014-PL-03A.

Subject to the following condition:

The works shall be carried out in accordance with the application drawings LHC014-PL-01 site plan; 02 existing plan and 3A proposed plan and all of the specifications noted thereon.

78. Otherwise the appeal is dismissed and planning permission is refused for the following works and any other works not specified above in paragraph 76.

1. Retention of the black flue on the west elevation.
2. Retention of the UPVC glazed screen to the west elevation.
3. Retention of the single rooflight to the rear hip roof of east elevation.
4. Retention of the UPVC windows to east elevation of garage.

Appeal C The Listed Building Consent Appeal

79. The appeal is allowed in part and dismissed in part.

80. The appeal is allowed in respect of the works listed below and listed building consent is granted for '*Removal of extension, amendments to windows and doors and construction of a conservatory*' at Thorpe Hall, Ewerby Thorpe, Sleaford NG34 9PR. The works granted consent are as follows:

1. Retention all of the UPVC windows on the north elevation.
2. Retention of the UPVC French doors and balcony on the north elevation.
3. Retention of the UPVC windows in west and north elevations of

the garage and outbuilding.

4. Replacement of UPVC glazed screen (first floor east elevation) with timber sash and case window to match existing timber windows in south elevation.
5. Replacement of UPVC windows to east elevation of garage with timber side-hung casement windows.
6. Retention of render to existing chimneys.
7. New timber garage doors as indicated on dwg LHC014-PL-03A.
8. New timber conservatory as indicated on dwg LHC014-PL-03A.
9. New 6/6 vertical sliding sash window to living room east elevation as indicated on dwg LHC014-PL-03A.
10. Replacement of UPVC door to east elevation with timber door as indicated on dwg LHC014-PL-03A.

Subject to the following condition:

The works shall be carried out in accordance with the application drawings LHC014-PL-01 site plan; 02 existing plan and 3A proposed plan and the specifications noted thereon.

81. Otherwise, the appeal is dismissed and listed building consent is refused for the following works and any other unauthorised works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990 and not included in the list above at paragraph 76.

1. Retention of the black flue on the west elevation.
2. Retention of the UPVC glazed screen to the west elevation.
3. Retention of the single rooflight to the rear hip roof of east elevation.
4. Retention of the UPVC windows to east elevation of garage.

Anthony J Wharton

Inspector