
Appeal Decision

Site visit made on 2 May 2017

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 12 July 2017

Appeal Ref: APP/G2815/F/15/3158030

51 North Street, Oundle PE8 4AL

- 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 Richard Jeremy Firth against a listed building enforcement notice issued by East Northants District Council.
 - The listed building enforcement notice, ref. EN/15/00194/PPL, was issued on 23 June 2016.
 - The contravention of listed building control alleged in the notice is without listed building consent the installation of a photovoltaic microgeneration system on the rear roof of the property.
 - The requirements of the notice are to:
 1. Remove the unauthorised photovoltaic microgeneration system from the rear roof of the property, and make good any resultant damage to the fabric of the property using like for like materials.
 2. Remove from the land any debris or property produced as a result of removing the photovoltaic microgeneration system.
 - The period for compliance with the requirements is three months.
 - The appeal is made on the grounds set out in section 39(1)(e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Preliminary matters

2. The Council had issued what purported to be a listed building enforcement notice on this property relating to the same works in November 2015¹. However, at appeal stage² it became apparent that the notice had been issued under the incorrect legislation – that is, under s.171A(1)(a) of the Town and Country Planning Act 1990 as amended, rather than s.38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. That notice was duly withdrawn, and a new notice issued. It is this new notice that is before me.

¹ Enforcement notice ref. EN/15/00194/PPL, dated 19 November 2015.

² Appeal ref. APP/G2815/F/15/3140039.

3. The appeal property is a Grade II listed building standing within the Oundle Conservation Area. I have therefore paid special regard to the desirability of preserving the special interest and setting of the listed building, and of preserving or enhancing the character or appearance of the Conservation Area, as required by Sections 16(2), and 72(1) of the Act³.
4. A retrospective application for listed building consent for retention of the photovoltaic microgeneration installation was refused by the Council in September 2015⁴.

Background matters

5. The Appeal property originates from the early 18th century, and lies on the western side of North Street within a substantial group of houses of broadly similar age and constructional materials. It is of two-storeys with attics, constructed principally in random coursed stone with Collyweston slate roofs, and with timber sash windows of various configurations.
6. The solar photovoltaic panels subject of this appeal are fixed to the southern slopes of the two hipped gable roofs extending to the rear of the main body of the house. There are 10 panels on the northern of the two roof surfaces, arranged as a group of 8, and a separate group of 2. There are 6 panels on the southern of the roof surfaces, in a single group.

The appeal on ground (e)

7. This ground is that listed building consent should be granted for the matters alleged in the notice.
8. The Council put forward Policy 2 of the Northamptonshire Core Spatial Strategy, which includes aims to ensure that proposals should conserve and where possible enhance the significance of heritage assets, and complement their surrounding historic environment in terms of form, scale, design and materials. Development plan policy is not determinative in listed building cases, but I shall take this as a clear indication of the Council's stance on such matters.
9. I saw they the panels on both slopes are highly visible from the car park that serves Halfmoon Mews, a quite recent housing development outside the Conservation Area, and immediately to the west. They are also readily visible from the car park of the Gascoigne building belonging to the large school in the centre of the town, also to the west. Both these areas are raised well above the level of the back garden of no. 51, giving views at or near eye-level, resulting in the panels being particularly prominent.
10. The panels themselves are black and shiny. I consider the material is incongruous and unsympathetic in the context of the predominant constructional materials of the house – rubble stone walls and stone slate roofs. The uniform flat surfaces of the panels, covering significant areas of the roofs, contrast unfavourably with the small scale, complex textures of the stone and slate, and the refined detailing of the sash windows. I do not know

³ The Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

⁴ Decision notice ref. 15/01601/LBC, dated 9 September 2015.

how the panels have been fixed to the roof, but note that it is possible that physical damage has been caused to the historic fabric.

11. As a traditional house originating in the 18th century, in a good state of repair, and forming part of a group of houses of broadly similar age, this is an important building in its own right, as part of an important group, and as an element of the Conservation Area. Changes to the external appearance are not only matters of how they appear in public views, but are of intrinsic importance to the way in which the building is appreciated in its own right, irrespective of public views. In my opinion the installation of this microgeneration equipment has caused significant harm to the appearance of this listed building, and to its intrinsic historic and architectural interest.
12. The house itself is an important element on the make-up of the traditional/historic character of the conservation area. Although not widely visible from public viewpoints, the installation is readily seen by users of the two nearby car-parks, and by residents of nearby dwellings. As a result I consider there is discernible harm to conservation area interests.
13. Paragraph 132 of the National Planning Policy Framework includes the advice that great weight should be given to the conservation of a heritage asset such as a listed building, and that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Paragraph 134 then says that where (works) will lead to less than substantial harm to the significance of the asset, this harm should be weighed against the public benefits of the proposal. In this case I do not consider any sufficiently clear or convincing reasons have been put forward to justify the works. Furthermore, while I accept that the harm caused is less than substantial, the relatively small public benefit deriving from generation of electricity and reduction in carbon emissions does not outweigh the degradation to the special interest of the listed building, and to conservation area interests.
14. The appellant argues that installation of micro-generation equipment on listed buildings is supported by aims set out in the East Northamptonshire Wind and Solar Power Supplementary Planning Document (SPD). The principal SPD extract he has provided sets out situations where planning permission is not required, and appears to relate to permitted development provisions under The Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the GPDO). Class A of Part 14 to Schedule 2 to the GPDO - '*Renewable Energy*' – includes permission for the installation, alteration or replacement of microgeneration, solar PV, or solar thermal equipment on a dwellinghouse. However, such permission is precluded if the building is listed. Furthermore, these provisions relate to the need for planning permission, rather than listed building consent, which is considered under a different regime. This argument carries very little weight, and does not alter my conclusions on the main issue.

Conclusions

15. For the reasons given above I conclude that the appeal should fail.

Stephen Brown

INSPECTOR