



Appeal Decisions

Site visit made on 6 August 2019

by **Anthony J Wharton** BArch RIBA RIASI

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

Decision date: 19 August 2019

Appeal A Ref: APP/F1610/F/18/3210744

5 The Coach House, Northwick Park, Blockley GL56 9RJ

- 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 Paul Kirwin against a listed building enforcement notice (LBEN) issued by Cotswold District Council (the LPA).
 - The enforcement notice, reference 17/00239/LIST, was issued on 1 August 2018.
 - The contravention of listed building control alleged in the notice is the installation of a flue on the roof of the building.
 - The requirements of the notice are as follows:
 1. Permanently remove the flue from the roof of the building.
 2. Restore the roof of the building to its former state using materials matching the existing roof.
 - The period for compliance with the requirements is 2 months.
 - The appeal is made on ground (e) only as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).
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Appeal B Ref: APP/F1610/Y/18/3210684

5 The Coach House, Northwick Park, Blockley GL56 9RJ

- 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 Mr Paul Kirwin against the decision of Cotswold District Council.
 - The application Ref 18/00148/LBC, dated 13 January 2018 was refused by notice dated 6 March 2018.
 - The works proposed are the installation of a new log burner and flue (retrospective).
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Decisions

1. Both Appeals A and B are dismissed. See Formal Decisions below.

Matters of clarification, background information and relevant policy

2. Both appeals relate to the same flue but the application relating to Appeal B was also for the installation of a log burner. There is no objection from the Council relating to the log burner. The objection in both cases relates to the flue only and this is how I have dealt with the appeals. I noted the internal position of the log burner during my visit.
3. The appeals property forms part of the Grade II listed '*Stable Block to North of Main House (Northwick Park)*'. 'Northwick Park' is a Grade I listed Building and 'The Coach House', originally the stable block has been listed in its own right. It is described as being late C19 and was listed on 25 August 1960. It is stone Ashlar faced with quoins and a flat band slated roof. It has two storeys and comprises 9 recognisable bays. The outer bays have triangular pediments and the inner bays have segmented ones. There is a central rusticated archway with a window above and the other windows are two-light stone mullioned casement windows. There are two tall chimney stacks in the centre of the roof. The building is still distinctly recognisable from its list description.

4. The listed building was converted to residential units in the late C20 and clearly there have been many alterations. One would assume that most of these were subject to Listed Building Consent (LBC) and/or Planning Applications (PAs). It is evident that some of the alterations have included the provision of flues and vents which protrude through the roof. However, there is no firm evidence before me to confirm one way or another whether any or all of these other flues and vents are authorised. The photographic evidence submitted on behalf of the appellant shows all of these flues and vents and I noted them during my site visit. The appeals flue differs in appearance from most of the others in that it is of shiny black metal and is over 1m in height.

5. There appears to some disagreement about which is the primary elevation to the property. From my inspection I consider that the flue is located on the roof of the rear elevation and that the front entrance to No 5 lies on the primary principal elevation to the former stable block. Thus the flue, in my view, is not located on the roof of the primary elevation. It is on this basis that I have dealt with both appeals.

6. As indicated above the LBC application, submitted in January 2018, was refused on 6 March 2018. The appellant indicated an intention to the LPA to appeal that decision and there is correspondence on file between the appellant's agent and the Council's Solicitor. The Council did not await the outcome of the LBC refusal appeal (Appeal B) and the appellant is aggrieved by this decision. However, a LPA is not obliged to await an outcome of an appeal and is entitled to issue a LBEN when it considers it expedient to do so. I now turn to the merits of the appeals.

Appeal A on ground (e) and Appeal B

7. The main issues in both appeals relate to the effect that this particular unauthorised flue (on the rear roof to No 5) has had on the character and integrity of the listed building; on its setting and on its special architectural and historic features.

The gist of the Council's case

8. The Council refers to the Section 16(2) of the PLBCAA. In reaching my decisions, because the Coach House is listed in Grade II, I have had special regard to the requirements of that section of the Act. I have also had regard to the National Planning Policy Framework 2019 (NPPF) which is a major material consideration. In particular I have considered the policies set out in section 16 (Conserving and enhancing the historic environment). The Council's references to the NPPF refer to an earlier version, as opposed to the latest February 2019 version. However, the basic policies and related arguments are essentially the same and I do not consider that either party is disadvantaged by my consideration of the up-to-date version of the NPPF.

9. In its Reasons for Refusal (RfR) the Council considers that the flue, by virtue of its size, position and design has impacted harmfully on the character, appearance and significance of the listed building, albeit accepted that the harm is '*less than substantial*' as referred to in the NPPF. It is considered that the flue fails to preserve or enhance the significance of this designated heritage asset and that there are no mitigating public benefits accruing from the installation of the flue.

The gist of the appellant's case

10. It is argued that the flue is not harmful to the listed building. It is considered that the Coach House is not a particularly prominent building and that only its north-west gable faces the main square. It is indicated that the new flue is on the rear (south-west) elevation which is only visible from the small secluded courtyard at the rear. This is in contrast to the numerous other flues and vents currently protruding through the roof of the listed building and which can clearly be seen from the main square. (Photographs 1 to 11 show the positions of the flues including the one at No 5).

11. It is argued, therefore that the appeal flue has a much lesser visual impact than most of the others and that, because it is closer to the eaves of the building it does not project above the ridge line. It is stressed that the height of the flue is the minimum required by the Building Regulations and that it has a traditional lead flashing in keeping with the other traditional materials. It is further contended that the flue does not affect the architectural features of the building and does not harm its setting.

My assessment

12. Having seen the all of the other protruding flues and vents from both near and distant viewpoints, I consider that the roof to the Coach House now has a cluttered and inappropriate appearance. Irrespective of whether or not the other flues have LBC, the overall impact on the slate roof to the listed building is, in my view, visually harmful.

13. The plethora of other vents and flues, which break through the sweeping slate roof, have not only affected the character and integrity of the listed building, in my view they have resulted in harm being caused to the fine architectural and historic features of the listed building: namely the slate roof itself; the eaves and ridge detailing and the chimney stacks. Overall, due to all of the protrusions, the roof looks more like one associated with a modern block of flats or even a commercial building.

14. The question now, therefore, is the effect that the appeals flue has had on the integrity and character of the listed building; its setting and its features of special architectural or historic interest. Clearly the fact that there are other flues and vents on the roof cannot be a justification to add another. But equally, any applications for the appeals flue must be assessed on its merits. Irrespective of the other installations the question is whether this particular flue in itself has been significantly harmful to the listed building to justify withholding LBC for its retention.

15. Having considered all of the submissions and having viewed all of the flues from both near and distant viewpoints, I share the Council's concerns about the appeals flue. It matters not which is the primary elevation. Works have been carried out to the listed building. Even if works cannot be seen, an assessment must be made as to whether or not they have affected its architectural and historic character.

16. I accept that there are very limited views of the flue. This is clear from the photographic submissions. However, when it is seen from the small courtyard, the tall (over 1m in height) shiny, black flue looks obtrusive and alien on the roofscape of the former stable block. Not only does it exacerbate the effect of the other protrusions through the roof, it stands out in contrast to the other flues and vents. I accept that it is closer to the eaves and does not extend over the ridge line as others do but, due to its height and colour it stands out much more than any of the other installations.

17. In doing so I consider that it detracts markedly from the integrity and character of the listed building. Despite it being on the rear roof elevation it also detrimentally affects the setting of the listed stable block and is harmful to the special architectural and historic features of the building; namely the roof and the eaves detailing. Unfortunately this latest addition to the roofscape is, in my view, the most noticeable and the most visually harmful of all of the flues and vents.

18. In conclusion, therefore, I agree with the Council that the flue, by virtue of its size, position and design has impacted harmfully on the character, appearance and significance of the listed building, on its setting and on its special architectural and historic features. I consider that the significance of this designated heritage has neither been preserved nor enhanced by this latest addition. It is contrary to the requirements of Section 16(2) of the PLBCAA and to policies within the NPPF which seek to conserve and enhance the historic environment. I agree with the Council that

the harm caused is less than substantial but there are no public benefits to outweigh the harm.

19. I consider, therefore, that the appeal on ground (e) in Appeal A should fail and that that Appeal B should also be dismissed. The council has already refused LBC for its retention and I find no justification in allowing consent at this appeal stage.

Other Matters

20. The appellant is aggrieved about the manner in which the Council has dealt with these cases/appeals. There is concern that the Council was not proactive in liaising with the appellant in relation to the application; that the Council is accused of not visiting the site; of ignoring the appellant's evidence regarding the other flues installed and of issuing the enforcement notice before Appeal B was considered.

21. I have already dealt above with the last point. With regard to the other matters, these are not before me. If the appellant remains aggrieved at any of the Council's actions it is a matter for the parties. There is no costs application before me relating to unreasonable behaviour in the appeal process and I have no powers to consider any of the appellant's complaints against the Council.

22. I sympathise with the predicament in which the appellant now finds himself. I can also understand what must be feelings and frustrations of unfairness, with regard to the refusal of LBC for the flue at No 5 in the light of all of the other existing flues and vents on the roof. However, the fact that the other installations are in place (whether permitted/consented or not) cannot be justification for allowing another harmful addition to the roofscape of the listed building. My decisions in these appeals would have been the same if there had been no other flues or vents on the roof of the former stable block. As indicated above I have considered these appeals on their merits.

23. In reaching my decisions in both appeals I have taken into account all of the other matters raised by and on behalf of the appellant and by the Council. These include the planning history; the initial appeal submissions; the various detailed statement; the heritage report; all references to the PLBCAA and the NPPF and all of the photographic evidence and historic e-mails between the Council and the appellant. However, none of these alters my conclusions that both appeals should be dismissed and nor is any other factor of such significance so as to change my decisions.

Formal Decisions

24. Appeal A is dismissed on ground (e) and the Listed Building Enforcement Notice is upheld. Listed Building Consent is refused for the works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990: namely the retention of the flue on the roof of the building at No 5 Coach House, Northwick Park, Blockley, Gloucestershire GL56 9RJ.

25. Appeal B is also dismissed.

Anthony J Wharton

Inspector