

Appeal Decision

Site visit made on 8 October 2019

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref : APP/J2210/X/18/3214974

Youngs Farm, Catts Wood Road, Lower Hadres, Kent, CT4 5PG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Peter Bell against the decision of Canterbury City Council.
- The application Ref.18/00836, dated 23 April 2018, was refused by notice dated 5 June 2018.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is (proposed) erection of a plaque to a listed building

Summary of Decision: the appeal is dismissed

Preliminary Matter

1. I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellant and the test of evidence is made on the balance of probability.

Main Issue

2. The main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well founded.

Reasons

3. The main issue turns on whether the proposed development would have been lawful at the time of the application.
4. The appeal site known as Young's Farmhouse is a Grade II Listed Building. The proposal is to attach an 'English Listed Building' plaque to the west elevation of the property. The plaque is made from cast lead and contains a rose motif and the words 'An English listed building'. It would be attached to the side of the property by means of a single screw and rawlplug inserted into a mortar joint. The plaque would hang on the screw by means of a keyhole shaped aperture on its rear side.
5. Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides that any works for the demolition of a listed building or

for its alteration or extension in any manner that would affect its character as a building of special architectural or historic interest requires the grant of listed building consent. Section 1(5) of the Act defines a listed building to include any object or structure fixed to the building.

6. The Act is silent with regard to the dimension, size or scale of a 'fixing.' I agree with the Council that it is reasonable to interpret section 1(5) of the Act to the effect that any object or structure 'fixed' to the building shall be treated as part of a listed building.
7. The Act does not define 'alteration'. The proposed plaque would hang from a screw in the same way as a picture hangs from the wall. The Appellant accepts that the screw is an alteration within the meaning of section 7 but one that does not affect the character of the listed building. The Appellant argues that the plaque is not an alteration as it is not fixed to the wall. I disagree. The plaque hangs from the screw which is fixed to the wall. I do not consider it reasonable to distinguish between the screw and the plaque when considering the application of section 7 of the Act. The plaque has the potential to affect the character of the listed building for example by virtue of its size, design or location. In my view as a matter of fact in the circumstances of this case the proposed erection of a plaque would comprise works of alteration in a manner that would affect the character of the listed building. Whether or not the works would be classed for other purposes as a fixture or fitting does not alter my conclusions.
8. Other examples of plaques are brought to my attention. But I do not find these to be on all fours with the facts of this case and in any event I have determined this appeal on its own particular facts.
9. I am satisfied that the proposal the subject of this appeal is an alteration within the meaning of section 7 of the Act and requires listed building consent. The appeal is dismissed.

Conclusion

10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the (proposed) erection of a plaque to a listed building at Youngs Farm, Catts Wood Road, Lower Hadres, Kent, CT4 5PG was well-founded and that the appeal should fail. I exercise the powers accordingly the powers transferred to me under section 195(3) of the 1990 Act as amended.

S. Prail

Inspector