



Appeal Decision

Site visit made on 30 October 2019

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 19 November 2019

Appeal Ref: APP/Y3940/F/18/3211528

2 The Chantry, High Street, Bramham, Chippenham SN15 2ET

- 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 Mrs Kerry Evans against a listed building enforcement notice (LBEN) issued by Wiltshire Council.
- The enforcement notice, numbered 18/00034/ENF, was issued on 8 August 2018.
- The contravention of listed building control alleged in the notice is: the replacement of single glazed multi-pane timber casement windows with UPVC double glazed windows with internal glazing bars.
- The requirements of the notice are as follows:
 1. Remove the UPVC double glazed windows with internal glazing bars within the dormer window on the second floor front elevation.
 2. Install single glazed multi-pane timber finish casement windows of the same design, materials and type as to which existed prior to the unauthorised installation as shown in photograph 1 attached to this notice. The single glazing shall be no greater than 6mm in thickness.
 3. Paint the external timber with an appropriate primer external primer and white gloss finishing coat.
 4. Repair and re-decorate with like-for-like materials any damage caused to the building by the works carried out to remove and replace the windows.
- The period for compliance with the requirements is 6 months.
- The appeal is made grounds (a), (c), (d), (e), (h) and (i) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).

Decision

1. The appeal succeeds to a limited degree on ground (h) only. Otherwise the appeal is dismissed. See formal decision below.

Background information

2. The appeal building is located on the west side of The Chantry, in the middle of Bromham and lies within the Bromham Conservation Area (BCA). It was listed in Grade II on 19 March 1962, as Nos 2 and 3, The Chantry and was formerly the Bromham Working Men's Club. At the time of listing there was also a shop at ground floor level with accommodation above. This is still the case. Despite many changes over the years the building is still notably recognisable from its list description; particularly the earlier C15 timber-framed section.

The appeal on ground (a)

3. An appeal on this ground challenges the listing and is made on the basis that the building is no longer of special architectural or historic interest and that it should be removed from the list.

4. The appellant indicates that although the house is listed, it has undergone many alterations over the years and most latterly by the brewery which owned the Working Men's Club. It is stressed that these renovations were not sympathetically carried out including the replacement of original windows with cheap timber ones, as well as some uPVC double glazed units. Reference is also made to part of the building being re-faced with red brick and that some windows from the C14 had been removed. The appellant also indicates that over the last four years she has been attempting to restore the house as best she can.

5. Having seen the building it is evident that many insensitive alterations have been carried out over the years. However, as indicated above, the building is still recognisable from its list description. In particular the timber framing is still evident as is the overall structure, including the red brick frontage section dating back to around 1900. There are still some of the details referred to in the listing clearly evident including part of the stone plinth and the notable chimney stacks.

6. Overall, I consider that it remains worthy of its listed status. As well as retaining physical features the building also has a social history in having been converted over the years and having been used as a social club. It forms a significant focal point in this part of Bromham and I do not consider that it should be de-listed. It is still of special architectural and historic interest and the appeal must fail on ground (a).

The appeal on ground (c)

7. To be successful on this ground of appeal the onus is upon the appellant to conclusively demonstrate that the work carried out (the installation uPVC windows) does not constitute a contravention of sections 7 and 8 of the PLBCAA. Section 7 of the PLBCAA states that '*Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special or architectural or historic interest unless the works are authorised*'. Section 8 sets out when works to a listed building are authorised.

8. The appellant stresses that the windows are on the third floor and are '*difficult to judge from the street*'. It is also indicated that they are in the red brick part of the house; that this part has not retained any original features and that it could, in fact, be '*any house circa 1900 anywhere*'.

9. Having considered these arguments I acknowledge that the windows are not located within the most historic part of the listed building. However, the whole of the building including the red brick section is listed. For any works carried out on the building there can be no distinction between the respective parts in relation to the application of the requirements of the PLBCAA.

10. Having seen the uPVC windows from both near and distant viewpoints, I consider that, irrespective of whether or not they have had a detrimental effect (that will be considered on ground (e)), they have affected the character of the listed building and therefore, that that consent is indeed required. There is no consent in place and so the appeal must also fail on ground (c).

The appeal on ground (d)

11. This ground of appeal essentially addresses situations where essential and urgent works were needed to preserve the listed building. The emphasis is on the words '*essential*' and '*urgent*'. The ground of appeal comprises three tests. The first is whether the works were urgently necessary in the interests of safety or

health; the second test is that it was not practicable to achieve the aims of safety, health or preservation of the building by repair or temporary support and the third test is that the works carried out were the minimum measures immediately necessary to achieve the aims of safety, health or preservation. For an appeal to succeed on ground (d) all three tests must be satisfied.

12. On the first test it is evident that the windows which were replaced were rotten and beyond repair. It is stated that there was a high risk of them falling from their high level and injuring someone below. It is also indicated that scaffolding would have been required to replace them and that this would have blocked access as well as making maintenance difficult.

13. However, whilst accepting all of those points there is no indication that the new works were so 'urgently necessary' that listed building consent could not have been applied for. In addition to this any replacement windows might have required scaffolding and any safety issues could have been resolved by replacing the windows with other types of windows. Clearly some replacements were necessary because of the dilapidated condition of the existing windows but this cannot be an argument that the uPVC components themselves were urgently necessary in the interests of safety or health. The first test is, therefore not met.

14. Although it may not have been practicable to repair the rotten windows the issues regarding safety could have been addressed by their replacement with components other than the uPVC ones as fitted. There is no evidence to show that some temporary solution could not have been put in place whilst a listed building application for replacement was prepared. Thus the second test is not met.

15. Finally, I do not consider that the installation of the uPVC components were the minimum measures immediately necessary to achieve the aims of safety, health or preservation. Other than a risk of the old windows falling out there is nothing else to show that there were serious health and safety issues that necessitated new uPVC windows. Therefore, the third test also fails and the appeal cannot succeed on ground (d).

The appeal on ground (e)

16. The main issues are as follows:

- The effect of the works on the character and integrity of the listed building;
- The effect on its setting and,
- The effect on the character and appearance of the conservation area.

17. The most relevant development plan policies are Policy 57 (Ensuring High Quality Design and Place) and Policy 58 (Ensuring the Conservation of the Historic Environment). This is up-to-date with the relevant policies within section 16 (Conserving and enhancing the historic environment) and section 12 (Achieving Good design) of the National Planning Policy Framework (NPPF). In reaching my conclusion in this case I have had regard to these local and national policies. Because the building is listed in Grade II and also lies within the BCA, I have had special regard and paid special attention to the requirements of sections 16 (2) and 72 of the PLBCAA.

18. Having seen the uPVC windows, I share the Council's concerns about their effect on the character and integrity of the listed building, on its setting and on the character and appearance of the BCA. Whilst acknowledging that the windows are in the red brick section of the building, I consider that they detract markedly from the overall appearance of No 2 The Chantry.

19. I do not accept the argument that the windows are hardly noticeable from the street. They can clearly be seen when approaching The Chantry and from the opposite side of the main road. Their stark white frames are noticeably different from any of the other windows in the street elevations of the listed building and appear as obtrusive and visually harmful elements when seen against the red roof tiles and the attractive black and white framed oldest section of the building.

20. I consider that the 5 section uPVC installation has detracted markedly from the integrity and character of the listed building and even from the later 1900 brick built section. The windows have detrimentally affected the setting of the building which is in a prominent corner location within the BCA. They have also detracted from its special features of architectural and historic interest; namely its roofscape and the timber framed older section of the building. It follows in my view that it neither preserves nor enhances the character or appearance of the BCA.

21. For the above reasons, therefore, I do not consider that listed building consent should be granted for the retention of the unauthorised windows. The appeal must also fail, therefore on ground (e).

The appeal on ground (h)

22. I have noted the appellant's view that the 6 month compliance period falls short of what should reasonably be allowed. I acknowledge that the works would be costly, especially taking into account the fact that other roofing repairs are needed. In the overall circumstances of this case, therefore, I agree with the appellant that a 12 month period would be a reasonable time in which to allow compliance with the LBEN. The appeal succeeds, therefore, to this limited degree on ground (h) and the LBEN will be varied accordingly.

The appeal on ground (i)

23. Having seen the windows as installed and having noted the photograph of the previous timber windows attached to the LBEN, I do not accept the appellant's arguments that the requirements as set out would not serve the purpose of restoring the character of the building to its former state. The former state included the timber windows as removed. By replacing the unauthorised uPVC windows with windows to match those as shown in the photograph, the previous character of the listed building in my view will be restored. The appeal also fails, therefore, on ground (i).

Other Matters

24. In reaching my decision I have taken into account all of the other matters raised by the appellant and the Council. These include the initial appeal documents submitted; the statements; the references to policies; the photographic evidence and the fact that nearby buildings in the BCA have had uPVC windows fitted. However, none of these carries sufficient weight to alter any of my conclusions on the various grounds of appeal and nor is any other factor of such significance so as to change my final decision.

25. With regard to other nearby UPVC window and door installations, I noted some of these during my site visit. However, although within the BCA there are no details before me with regard to whether or not the buildings were listed. In any case some of the nearby dwellings are of modern design and would not be expected to conform with the requirements necessary for buildings of historic interest. These nearby examples, therefore, do not assist the appellant's case.

Formal Decision

26. The appeal succeeds to a limited degree on ground (h). I direct that the listed building enforcement notice be varied by deleting the figure '6' (six) in the section entitled 'TIME FOR COMPLIANCE' and by substituting therefor the figure '12' (twelve).

27. Otherwise the appeal is dismissed and the Listed Building Enforcement Notice is upheld as varied. Listed building consent is refused for the works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector