



Appeal Decision

Site visit made on 14 January 2020

by Mr K L Williams, BA, MA, MRTPI

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

Decision date: 05 March 2020

Appeal Ref: APP/U2615/F/19/3224325

Land at 51 King Street, Great Yarmouth, Norfolk, NR30 2PW

- 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 Simon Talbot-Williams of Raban (Labour Club) Ltd against a listed building enforcement notice issued by Great Yarmouth Borough Council.
- The enforcement notice, ref: U2615, was issued on 18 January 2019.
- The contraventions of listed building control alleged in the notice are:
 - i) The removal of 2 timber framed sliding sash windows at first floor level on the front west facing elevation of the property. The windows are shown boarded in Annex A of the Notice.
 - ii) The removal of 4 timber framed sliding sash windows at first floor level on the south facing elevation of the property and their replacement with Upvc windows therefore not employing a like for like reconstruction of the original design or materials. Windows shown Upvc glazed in Annex B of the Notice.
- The requirements of the notice are set out in the Schedule to this decision.
- The period for compliance with the requirements is nine calendar months.
- The appeal is proceeding on the grounds set out in section 39(1) (a), (d), (f) and (g) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal fails. The listed building enforcement notice is upheld.

Preliminary Matter

1. In addition to the above grounds of appeal, the appellant initially appealed on ground (j). That ground was later withdrawn and is therefore not considered in this decision.

Background

2. No.51 King Street is a 3-storey building facing King Street. It was designated a Grade II listed building in June 1953, when it was described as a Working Men's Club. The building is within the King Street Conservation Area.

The Appeal on Ground (f)

3. The appellant contends that the enforcement notice was not properly served. It was sent to no.15 Half Moon Street whereas the appellant's company address is said to be elsewhere, at 17 Clifford Street, with its registered address at 5-9 Eden Street, Kingston-on-Thames. It is also said that the Council gave an incorrect telephone number for the Planning Inspectorate.
4. The Enforcement Notice was issued on 18 January 2019. The Council provides a Land Registry Entry for the property at the time the notice was served. It

identifies Raban (Labour Club) Limited as the proprietor and gives the Half Moon Street address used by the Council as the registered address. The evidence suggests that the Council used its best endeavours to properly serve the notice. The appellant company has been able to make its appeal against the Notice on a variety of grounds. The company has not been prejudiced by the manner in which the Notice was served or by the other matters raised by the appellant. The appeal should not succeed on this ground.

The Appeal on Ground (a)

5. An appeal on this ground is that the building is not worthy of listing in that it is not of special architectural or historic interest. The appellant explains that, whereas the listing description refers to a 5-window range in the 3-storey building over the doorway, the windows in this appeal are in part of the building which was re-built in the 1970's. It is said that the windows in that element of the building were a modern addition, comprising "spiral sash balance windows" which have deteriorated due to the use of poor quality materials. It is also said that, if the appeal windows were considered important, the listing description would have been altered to include them.
6. As the appellant observes, the windows which are the subject of this appeal are in part of the building which was re-built following the grant of planning permission in 1974. Nevertheless, that element of the building is not a separate entity. It is part of the listed building. Notwithstanding the appellant's view, the re-built section largely reflects the character of the rest of the building in terms of its scale, materials and detailing. Nor is it unusual for a listing description prepared some years ago not to have been updated despite changes to the building. While the listing description is an aid to identification of significant features it is not necessarily comprehensive.
7. No.51 is significant as an example of a building constructed around 1770 as a house in one of the main streets of Great Yarmouth. The listing building description identifies a range of features of architectural interest. In addition to the central 5-window range, there are rusticated quoins and platbands and a central doorway with a rusticated surround and a hood. Other sash windows have skewback arches. The eaves cornice and parapet are also of interest, as is the detailed design of the central first and second floor sashes. I conclude that no.51 remains of sufficient historic and architectural interest to be designated a listed building. The appeal should not succeed on this ground.

Ground (c)

8. This ground was not pleaded but the appellant contends that consent was not needed for the works carried out. Listed building consent is required for works to a listed building which would affect its character as a building of special architectural or historic interest. In this case the works entail the replacement of 6 timber sash windows with Upvc windows. Two of the windows are on the building's principal elevation, facing King Street. The remainder are on the south elevation, which can be seen from King Street. They are also seen in conjunction with the principal elevation and in the context of the remaining timber sash windows. As with many listed buildings, its windows are a prominent and significant element in the character and appearance of no.51 King Street. The windows which have been installed are markedly different from the former windows in respect of their materials and design detail. The works carried out do affect the character of the building as one of special

architectural or historic interest. Listed building consent was required for those works and the appeal should not succeed on this ground.

The Appeal on Ground (d)

9. It is contended that the works to replace the building were urgently required in the interests of safety, health and to preserve the building. The appellant says that the relevant parts of the building were uninhabitable because the windows were rotten. It is also said that the windows were not weatherproof or capable of providing ventilation and had to be replaced.
10. The appellant's case on this ground is less than compelling. It is credible that the windows were in poor repair. However, it is very likely that windows in need of repair or replacement would have deteriorated over a long period rather than suddenly. There does not seem to have been any sudden event or change in circumstances. There would have been ample opportunity for forward planning of repair or replacement. Indeed, the replacement of the timber sash windows with Upvc windows would have taken some planning over a period, allowing for measurement, manufacture and installation. That period would, for example, have allowed time for consideration of temporary measures, such as the installation of secondary glazing, while an appropriate permanent solution was considered. It would also have allowed for professional advice to be taken on the effect of the Upvc windows on the special character of the listed building. It has not been shown that the removal of the timber windows and their replacement with Upvc windows represented the minimum necessary measures. The appeal should not succeed on this ground.

Ground (e)

Main issue

11. Although this ground was not pleaded the appellant argues that the Upvc windows are appropriate and should be retained. This ground of appeal is therefore addressed. The main issue is the effect of the replacement windows on the special architectural and historic interest of the listed building.
12. The significance of no.51 and its features are set out above in the context of ground (a). Its windows are an important aspect of the listed building's significance. The listed building is in a prominent position, fronting onto King Street. It is within the King Street Conservation Area. Two of the replacement windows are on the principal elevation facing the street. Although the other 4 are on a side elevation, they can be seen from King Street and in the context of the front elevation. Upvc windows are not characteristic of this listed building, nor are they sympathetic to its character. Their design does not reflect that of timber sash windows, for example in respect of the use of applied rather than integral cross members and in the manner of opening, which is that of a bottom opening casement. The installation of the Upvc windows is harmful to the significance of the listed building and fails to preserve its architectural and historic interest. Having regard to the building's significance and its prominent position, the works also fail to preserve or enhance the character or appearance of the King Street Conservation Area.
13. The replacement windows are in the part of the building which was re-built in the 1970's and there are Upvc windows in a nearby building. While it is argued that the Upvc windows enhance thermal insulation and energy conservation,

there are other approaches to those issues, such as secondary glazing. Although reference also made to the effect on the viability of the use of the building if the replacement windows are not retained, there is little evidence to substantiate that concern. Dismissal of this appeal would result in additional expense to the appellant and delay in bringing the building fully into use. Nevertheless, these matters do not outweigh the harm resulting from the works. The listed building and the King Street Conservation Areas are designated heritage assets. While the harm to the significance of these heritage assets is less than substantial there are no public benefits which outweigh that harm. Listed building consent should not be granted.

The Appeal on Ground (g)

14. Ground (g) is that the requirements of the notice would not restore the building to its former state. The appellant contends that replacing modern, 1970's windows with windows which would be a pastiche of reproduction 18th century single glazed windows would be inappropriate. It is also said that it would be environmentally unsustainable, particularly with regard to energy performance and insulation value.
15. The appellant has referred to the poor condition of the windows prior to their replacement. However, it would be inappropriate for the enforcement notice to require the installation of windows other than in a new condition. The Notice requires the installation of 6 over 6, double hung timber sash windows. It is not disputed that the former windows were of timber construction and there is nothing to suggest they were of a different configuration. The Notice also specifies other design detailing for the windows to be installed. There is an absence of substantive, detailed evidence on the precise specification of the windows which have been removed. In that context, it is not excessive for the Notice to specify such details, together with details of how the work must be carried out. This also removes any uncertainty as to precisely what works must be carried out. Nor has it been shown that the former windows were other than single glazed, as required by the Notice. While I appreciate the appellant's concern about energy conservation, that is not a matter of relevance to this ground of appeal. It is open to the appellant to consider other approaches to energy conservation, such as secondary glazing.
16. I conclude that the requirements of the notice do not exceed what is necessary to restore the building to its former condition. The appeal should not succeed on ground (g).

Overall Conclusion

17. Having regard to the above and to all other matters raised the appeal should not succeed.

Formal Decision

18. The appeal is dismissed. The Listed Building Enforcement Notice is upheld.

K Williams

INSPECTOR

SCHEDULE OF LISTED BUILDING ENFORCEMENT NOTICE REQUIREMENTS

1) Western Elevation 1ST FLOOR – Two windows shown boarded in Annex A of the Notice.

Supply and fit two traditional sash windows which replicate the other existing sliding sash timber framed windows to the front west facing elevation of the building. The replacement windows and method for installation must follow the details below:

- i) Replacement sash windows should be double hung, sliding sash windows, complete with weights, boxes, pulleys, beading and sill boards to match existing. The sashes should be without horns. They should be single glaze in a 6 over 6 configuration with the glazing bars puttied into the frames. Glazing bars should be integral and not applied and should be 18mm ovolo.
- ii) The replacement sash windows must be recessed from the masonry line of the front elevation. This dimension should be taken on site and match the recess dimensions of existing windows on the elevation.
- iii) The replacement windows should be securely fixed to the masonry of the window reveal by means of appropriate fixing brackets, 3 no. on either vertical side of the window. Brackets should be drilled and screwed into masonry.
- iv) Making good around the window should be carried out with lime mortar, consisting of 1 part hydraulic lime to 3 parts sand.
- v) The entirety of the window frames filled must be primed, undercoated and painted in a white top coat.

2) Southern Elevation 1ST FLOOR – Four windows shown UPVC glazed in Annex B of the Notice.

Supply and fit four traditional sash windows which replicate the other existing timber framed sliding sash windows to the front and side elevations of the building. The replacement windows and method for installation must follow the details below:

- i) Careful removal of the four UPVC windows. Care must be taken not to damage surrounding brickwork.
- ii) Replacement sash windows should be double hung, sliding sash windows, complete with weights, boxes, pulleys, beading and sill boards to match existing. The sashes should be without horns.
- iii) They should be single glazed in a 6 over 6 configuration with the glazing puttied into the frames.
- iv) Glazing bars should be integral and not applied and should be 18mm ovolo.

- v) The replacement sash windows must be recessed from the masonry line of the front elevation. This dimension should be taken on site and match the recess dimensions of existing windows on the elevation.
- vi) The replacement sash windows should be securely fixed to the masonry of the window reveal by means of appropriate fixing brackets, 3 no. on either vertical side of the window. Brackets should be drilled and screwed into masonry.
- vii) Making good around the window should be carried out with lime mortar, consisting of 1 part hydraulic lime to 3 parts sand.
- viii) The entirety of the window frames filled must be primed, undercoated and painted in a white top coat.