



Appeal Decision

Site visit made on 13 October 2020

by Katie Peerless Dip Arch RIBA

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

Decision date: 22 October 2020

Appeal Ref: APP/N5090/F/19/3236160

The Manor House, 2 Totteridge Common, LONDON, N20 8NL

- 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 Russell Park against a listed building enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/0217/19, was issued on 15 August 2019
 - The contravention of listed building control alleged in the notice is the carrying out of internal and external operations/building works not in accordance with the terms of listed building consent and the approved plans 'Draft part site plan' drawing number PL-204 Rev C and 'East courtyard, gates and garages facing Totteridge Common' drawing number PL-213 REV A of planning permission ref 16/4392/LBC dated 18th January 2017. The principle variations from the approved plans being:
 1. *The rebuilt brick shed.*
 - A) The recladding of the rebuilt shed. B) The installation of an additional door.
 2. *The stables.*
 - A) The installation of a new stable door. B) The installation of windows not matching the original.
 3. *The garage.*
 - A) The installation of a shower room and toilet. B) The installation of a rooflight.
 - The requirements of the notice are: Alter the stables (outlined in green on the map attached to the listed building enforcement notice) to match the approved scheme as shown in 'Draft part site plan' drawing number PL-204-Rev C and 'East courtyard, gates and garages facing Totteridge Common' drawing number PL-213 Rev A of planning permission ref 16/4392/LBC dated 18th January 2017. Included but not limited to the following: A) The removal of the external door and replacement with the original stable door or in the event of that having not been maintained a replica as shown on drawing number PL-204 Rev C of planning permission ref 16/4392/LBC and outlined in orange on photo x. B) the removal of the windows, replacing them to match the original, with the same detailing as shown outlined in yellow on photo y. Alter the garage (outlined in blue on the map attached to the listed building enforcement notice) to match the approved scheme as shown in 'Draft part site plan' drawing number PL-204-Rev C of planning permission ref 16/4392/LBC dated 18th January 2017. Included but not limited to the following: A) The removal of all additional walls, doors, fittings and fixtures other than those shown in the shown in 'Draft part site plan' drawing number PL-204-Rev C and revert to the layout to match these approved plans of planning permission ref: 16/4392/LBC. B) The removal of the roof light from the north-eastern roof slope refilling the aperture with roofing materials as appropriate and finishing in tiles to match existing as shown in photo z.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1)(a), (b), (c) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. It is directed that the listed building enforcement notice be corrected by the deletion of the words in Schedule 2 paragraph 3 B). The appeal is allowed insofar as it relates to the rebuilt shed, the garage extension and the stable door and listed building consent is granted for the retention of these works and the demolition of the shed at The Manor House, 2 Totteridge Common, London, N20 8NL.
2. It is directed that the listed building enforcement notice be varied by deleting references to the shed, the garage extension and the stable door.
3. The appeal is dismissed and the listed building enforcement notice is upheld as corrected and varied, insofar as it relates to the windows in the stables, and listed building consent is refused for the retention of those works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Main Issues

4. I consider the main issues in this case to be:

On ground (b): whether the alleged works have not occurred as a matter of fact and, if they have:

On ground (a): whether or not the garage is a building listed by virtue of its location within the curtilage of the Manor House and, if it is:

On ground (c): whether there has been no contravention of sections 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBA) because the works do not affect the special architectural or historic interest of the listed building and, if they do;

On ground (e): the effect of the works on the special architectural or historic interest of the listed building.

Site and surroundings

5. The appeal site is a substantial residential property within the Totteridge Conservation Area containing the Grade II listed Manor House and its outbuildings which are set in generous grounds. The subjects of the Listed Building Enforcement Notice (LBEN) are 3 of these outbuildings - a small rebuilt shed, a former stable building and an extension to an existing garage. These last 2 buildings are built against or attached to others located in adjacent properties in Grange Avenue which leads off Totteridge Common.
6. Listed building consent (LBC) 16/4392/LBC was granted for the demolition of the original brick shed and its rebuilding in similar materials and in the same style, but without a door at each end, as previously existed. Its replacement is larger than the original, is timber framed, clad in black stained boarding and has double doors in the front and rear, whereas the originals were single.
7. Similarly, the stables have LBC for alterations which include the replacement, like for like, of the 2 windows and stable door in the west elevation. However, the new windows are of a different style, size and material and the stable door is now hung on the opposite side and appears to be of slightly different opening proportions to the original.

8. The extension to the garage has a large rooflight in the flat roof which was not shown on the approved drawings and the interior includes a WC and shower room, which were also not included on the approved plans.

Reasons

Ground (b)

9. This ground of appeal can succeed only if the works referred to in the LBEN have not occurred as a matter of fact. I saw at my site visit that the alterations set out in the notice have taken place and the appeal on ground (b) must therefore fail. The claim that the garage extension is not actually listed and therefore the works to it do not require listed building consent will be considered under the appeal on ground (a).
10. Similarly, the claim that the works have not affected the special architectural and historic interest of the listed building will be considered under the appeal on ground (c).

Ground (a)

11. The PLBA states that any freestanding objects or structures within the curtilage of a listed building are to be treated as part of that building, unless they were constructed after 1 July 1948. The appellant has stated that he does not know the age of the shed and stables in question but has provided no evidence to demonstrate that they were constructed after the relevant date. From their design, materials and the historic plans submitted by the Council, it seems most likely that these building pre-date 1948 and the appeal on ground (a) in respect of them fails.
12. The appellant submits that, as the garage is a newly constructed building, it does not, therefore, meet the criteria for a 'curtilage' listed building. However, the new garage is attached to an existing garage building, forming an extension to it, and both are within the curtilage of the main house. Consequently, it is not freestanding and is to be treated as part of the building to which it is attached. As with the shed and the stables, that building is curtilage listed. The new garage now forms part of a curtilage listed building and is not freestanding and the appeal on ground (a) in respect of it therefore fails.
13. The shed no longer exists in its former state but LBC for its demolition was only granted conditionally, dependent on it being rebuilt in a similar style. This has not happened and the LBC for its demolition has therefore not been complied with. The new shed would not be curtilage listed in its own right but, in the absence of a like for like replacement and the failure of the ground (a) appeal, the LBEN can require it to be altered to comply with the conditions.

Ground (c)

14. An appeal on ground (c) claims that, if the alleged matters have occurred, (which I have concluded that they have under the appeal on ground (b)), they do not constitute a contravention of s.9(1) or (2) of the PLBA. These sections confirm that it is an offence to contravene s.7 of the Act or, in the case of s.9(2), fail to comply with any conditions attached to a LBC. The appellant claims that the works to the outbuildings have not affected their special architectural or historic interest nor that of the main listed house.

15. The LBEN states that it aims to ensure that the buildings are brought into the state in which they would have been if the terms and conditions of LBC ref: 16/4392/LBC, dated 18 January 2018. The relevant approved drawings of this consent are PL-204-Rev C and PL-213 Rev A.
16. Nevertheless, the works that have been carried out are different from the original, do not comply with the terms of the LBC and have brought about a clear visual change to the buildings. If the buildings are curtilage listed, LBC is required to authorise them, even if the alterations are acceptable. If they are found to be harmful, then there must be public benefits that outweigh that harm, as set out in the National Planning Policy framework.
17. The approved plans clearly show that the demolished shed is to be rebuilt in brick, to match the existing, that the stable windows are to be remade to match the existing detail and that the stable door is to be retained and hung on the left hand side when viewed from the exterior of the building. There is no rooflight on the flat roof of the garage and no shower room or WC in its interior.
18. In the final comments, the appellant's agent claims that the rooflight is approved and I accept that this is true of the small conservation type rooflight shown in the north east roof slope of the original garage building. The LBEN erroneously refers to this rooflight in paragraph 3 B) of Schedule 2 and I will correct the notice to remove this reference. However, the LBEN states that the works to bring the garage into conformity with the approved plans are not limited to those listed in items 3 A) and B) of that schedule and would therefore include the removal of the flat rooflight, if it is unauthorised.
19. Nevertheless, the appellant claims that this rooflight is also authorised and a note on drawing PL-213 Rev A states that the flat roof is to be 'as previously approved'. The Council has provided a planning history of the property and I note that LBC ref: B/01130/13 granted in June 2013 included consent for a garage extension with a rooflight, that was subject to the conditions that the works should be begun within 3 years and details of the rooflight should be submitted for approval before the works began. I also note that an application¹ to discharge condition 4 of that consent, which included details of a rooflight was submitted in 2016, but later withdrawn. I have been given no detail of any other consent for a flat rooflight in the new garage extension.
20. It seems to me that it is consent 16/4392/LBC that has been implemented and because there is no reference on the approved plans to a flat rooflight, no reference to it in the attached conditions and I have been given no evidence to show that a rooflight of this style was ever approved through the discharge of a previous condition, the rooflight does not benefit from LBC. Therefore, with the exception of the correction I will make to the LBEN, the appeal on ground (c) fails.

Ground (e)

21. The appellant seeks listed building consent for any of the works that are found to contravene s.7 of the PLBA. The Council has mistakenly addressed ground (e) as an appeal based on the notice not having been properly served. However, this applies to planning enforcement notices, not those relating to listed buildings.

¹ Ref: 16/3391/CON

22. However, the LBEN and the previous refusal of listed building consent for them explain the reasons why the Council has objected to the alterations to the approved scheme and I will take these reasons into account when reaching my decision.
23. Turning firstly to the shed, I am told that the original was beyond repair and has reached the end of its useful life. It apparently contained a WC at one end and a log store at the other separated by an internal wall. Although the Council considers it had some historic interest, it appears to have been an unremarkable building with little architectural or historic merit. It has now been demolished in its entirety and so any historic patina has already been lost, but this would have been the case in any event. Consequently, I find there would be no particular benefit in architectural or historic terms in requiring the shed to be replaced with a replica of the original.
24. The replacement building has a similar layout but contains service equipment. It is also of a similar style to another new shed permitted under LBC 16/4392/LBC and it stands next to the stables, which has black stained boarding on its west wall which matches that of the shed. I consider that the shed, as now built, is causing no harm to the listed buildings around it or their settings. It is a modest, utilitarian outbuilding well suited to its location and I shall therefore grant LBC for its retention.
25. Turning to the garage, the Council objects to the inclusion of the rooflight and the internal additions to provide a WC and shower room. Although this extension is part of the curtilage listed garage, the rooflight is not visible from any public viewpoints and can only be seen from a small window in the flank wall of the Manor House. The Council considers that such a large rooflight is not typical of the Conservation Area and fails to preserve the special architectural and historic interest of the listed building.
26. From what I saw however, the rooflight is not atypical of such installations in garden buildings in an historic context and is entirely in keeping with its surroundings. It is also the case that this part of the building is new and might therefore be expected to reflect and acknowledge the fact that buildings are adapted and developed to suit modern needs. Provided such changes do not cause harm to the listed building as a whole, I see no reason why they should not be permitted and consider that to be the case here.
27. The internal additions have caused no change to the physical appearance of the exterior of the building. Again, the shower room and WC are located in the new extension of garage and are having no impact on any historic fabric. It seems the Council is unhappy that the building could, through these changes, be put to a habitable use rather than a garage. However, that is not a matter that, in this case, I consider to be relevant to whether LBC should be granted for them. The internal changes would cause no harm to the protected characteristics of the listed building or its setting in the Conservation Area but if the Council considers that they are facilitating an unacceptable material change of use, it would be for it to address these concerns through other means.
28. In respect of the stables, the replacement stable door, although slightly different to the original and hung on the opposite side is, in my view, causing no identifiable harm. I can see no benefit in requiring it to be reconstructed or rehung and will grant LBC for it as it exists.

29. The windows that have been installed are, however, a different matter. The previous windows were typical of an building that was subservient to the main house and had a utilitarian appearance that reflected its original use. These have been replaced by smaller black, modern, double glazed domestic style casements and, although the appellant considers that they are of a more suitable design, the loss of the original windows has caused a noticeable change to the historic form of the building which, I consider, harms its original character. There are no public benefits arising from this change, as required to justify such harm, as set out in paragraphs 193 – 196 of the National Planning Policy Framework. The works consequently fail to comply with the statutory duty to protect listed buildings and their settings, as set out in the PLBA, policies DM01 and DM06 from the London Borough of Barnet's Local Plan Development Plan Document 2012 and policy 7.8 of the London Plan 2016 that carry forward this duty.

Conclusions

30. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant listed building consent for some of the matters the subject of the notice, but otherwise I will uphold the listed building enforcement notice with corrections and variations and refuse to grant planning permission on the other part.

Katie Peerless

Inspector