



Appeal Decisions

Site visit made on 6 October 2020

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 4 November 2020

Appeal A: APP/C1625/C/20/3249351

De Lacy Cottage, The Street, Frampton-on-Severn, Gloucester GL2 7EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Diane Stevens against an enforcement notice issued by Stroud District Council.
 - The enforcement notice was issued on 14 February 2020.
 - The breach of planning control as alleged in the notice is a) the installation of roof lights to the rear of De Lacy Cottage. All of the roof slopes are prominent on this cottage as they are low level and highly visible from the garden. The installation of the roof lights has added an element of visual clutter which is at odds with the simplicity of the historic roof slopes; b) the installation of three new dormers to the roof of the Hall building. The new dormers are considerably larger and more in number. Their detailing is overtly ornate which has exacerbated their visual impact. The sum of these details is dormers that are visually obtrusive and historically incorrect. This has had a very significant and harmful impact on the character and special interest of the building; c) The erection of an unauthorised timber fence to the north of De Lacy cottage. A timber fence has been erected above the low boundary wall to the side of De Lacy cottage, adjacent to the public highway. The demarcation of the garden by the low brick wall was a key component which contributed to the character of the setting of the listed building. The erection of a fence has dramatically altered this character and harmed the setting of the listed building; d) The erection of a low brick wall with railings above between the cottage and the Hall. The visual link between the cottage and the Hall, historically an open yard, has been severed by the erection of low brick walls and railings. This has harmed the setting of the listed building and their interrelationship and sense of connectivity.
 - The requirements of the notice are a) the rooflights should be removed and the pantile roof made good in accordance with the approved plans; b) the built dormers to the Hall roof should be removed and the two approved dormers constructed in the locations shown on the approved plans; c) the installed double glazed windows should be removed and the approved windows installed in their place; d) remove the installed wooden front boundary fencing to the side of De Lacy cottage and remove the low brick walls and railings to the courtyard between De Lacy cottage and the Hall.
 - The period for compliance with the requirements is 18 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Appeal B: APP/C1625/F/20/3249349

De Lacy Cottage, The Street, Frampton-on-Severn, Gloucester GL2 7EA

- 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 Ms Diane Stevens against a listed building enforcement notice issued by Stroud District Council.
 - The enforcement notice was issued on 13 February 2020.
 - The contravention of listed building control alleged in the notice and the requirements of the notice are set out in Annex 1.
 - The period for compliance with the requirements is 18 months.
 - The appeal is made on the grounds set out in section 39(1)(k) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Procedural Matters

1. Generally it is agreed that the works alleged have occurred, and it is acknowledged that these were not undertaken by the appellant, who is working with the Council in order to rectify the situation.
2. With relation to the listed building enforcement notice the appellant does not contest item (a), (b), (c), (e), (h), (i), (j) and (l). Item (k) is now agreed not to have occurred, simply a lowering of the ground levels and this will be removed from the notice.
3. For the purposes of this decision I have assumed the building faces west towards the road.
4. De Lacy Cottage is a grade II listed building and is noted in the list description to be a small detached cottage of C16 origin or earlier with timber framing. De Lacy Hall, which is to the south of the cottage, is thought to probably date from the C16 or C17 and again is grade II listed of timber framed construction. The significance and special architectural and historic interest of the cottage and Hall clearly relates to their age, construction and design and they make a complimentary group on the site and are a significant addition to the street scene. The two buildings are now attached by the modern extension.

Decisions

Appeal A

5. It is directed that the enforcement notice be corrected by the deletion of 'the installation of roof lights' and by insertion of 'the installation of two roof lights to the northern slope'. The requirement is to be corrected by deletion of requirement (a) and the addition of new requirement (a) 'the two roof lights to the northern slope at the rear of De Lacy cottage shall be removed and the roof made good to match the surrounding slope'.
6. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

7. It is directed that the listed building enforcement notice be corrected and varied by:-
8. deleting requirement (d) and inserting new requirement (d) 'The two rooflights on the northern slope at the rear of De Lacy cottage shall be removed and the roof made good to match the surrounding slope.'
9. Deleting requirement (h).

10. deleting requirement (i) and replacing with '(i) Remove the modern fabric infill panels and replace to match what was removed'.
11. Deleting requirement (j).
12. Deleting from requirement (k) 'remove the installed wooden front boundary fencing'.
13. Subject to these corrections and variations, the appeal is dismissed and the listed building enforcement notice is upheld.

Reasons

Appeal B – Listed building enforcement – ground (k)

14. Ground (k) is that the steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
15. This simply asks whether the works identified would be more than is required to be in accordance with the listed building consent, it is not whether they are acceptable, that would be the subject of a ground (e) appeal, which has not been made.

Rooflights (item (d))

16. All the rooflights fitted were not shown on the original listed building consent. The first floor plan indicates that there are 4 rooflights in this part of the building, although two which should appear on the section B-B are not shown on that drawing, so there is a discrepancy. There are two further windows on the rear (east) roof slope. However, additional windows have been installed and are not shown on the north side elevation.
17. I note that the approval of details did not occur and therefore these were not approved by the Council. In my opinion the omission of the rooflights in Section b-b is a minor error and the plans clearly indicate there would be roof windows inserted in the approximate locations fitted. These are 'conservation style' rooflights and I consider these are an acceptable type and size for the building and should be considered as complying with the LBC so it would be excessive to require their removal. Clearly the extra windows on the north elevation are not part of the LBC so it is not unreasonable or excessive to require the windows which were not shown to be provided in the original listed building consent to be removed i.e. those on the north elevation.
18. I note the agreement with the roof covering and will remove pantiles from the requirement.
19. The appeal partially succeeds on ground (k).

Double glazed windows (item (h))

20. The plans submitted with the application indicate that the windows were to be double glazed, but the Council in granting approval also requested that details of the windows be submitted for approval. This was not undertaken so those inserted were not approved. However, while it was necessary to submit details of the windows, those details were for double glazed windows as indicated on

the drawings. In my view, the expectation and overall approval was for some form of double glazed window, with details to be submitted. If double glazing was not acceptable that should have been made clear.

21. In any case, I consider that as the windows are modern, to have double glazing inserted does not have the same impact as if the windows were old ones modified for double glazing. The double glazing is narrow, and has minimal impact in relation to the architectural and historic character of the listed building and requirement (h) would be excessive. In this respect the appeal succeeds on ground (k).

The replacement of infill panels Item (i)

22. The panels that have been inserted are basically neat and modern, and this is reinforced by the introduction of the lead drip at the base. However, they are at odds with the 'old character and appearance', so change the architectural historic character of the listed building. Having considered the photographs and list description I accept that the previous panels were brickwork, therefore the replacement with wattle and daub, although historically accurate cannot be required by the notice, therefore the requirement should not be for wattle and daub, but brickwork to match what was removed. I therefore conclude that it is not excessive to require their replacement. The appeal on ground (k) fails. I will correct the notice in relation to the wattle and daub.

The installation of bargeboards Item (J)

23. Unfortunately, the allegation is a little confused referring in part to bargeboards under the eaves and does not fully identify the bargeboards in question in the allegation or requirements.
24. This is a situation where I consider the architectural and historic character has been affected by the bargeboards inserted, and in order to return the building to accord with the LBC it is necessary to undertake further works, but I consider this aspect of the notice is not precise enough for the appellant to fully understand what is required. I shall therefore strike out this allegation and requirement. The Council will have to complete another notice in this respect.

Appeal A - Enforcement Notice

25. I acknowledge that according to the appellant the Council had opportunities to inspect the work as it progressed and would have been aware that the various conditions had not been discharged. However, where that may be the case, it does not prevent the Council from taking appropriate enforcement action.
26. The Council inspected the works in 2014 and 2016 and did not take any action until 2020 when the appellant brought various matters to the Council's attention. However, while the works were clearly in progress at those times, there is little evidence to show when it was completed. The building control final certificate was not issued until September 2016 and the property was not marketed until 2016.
27. In a Council Committee on the 13th March 2014, it was stated that "De Lacy Cottage and De Lacy Hall are currently undergoing extensive repairs and will hopefully be occupied in the near future". The appellant says this strongly indicates that the works were near completion at the time of the inspection by the Council in 2014, and thus before the time of the property being placed on

the market in September 2016. I do not agree that any completion date can be reasonably discerned from this as many factors can delay works.

28. The appellant notes whilst there is no accurate date to be provided for the previous owner having undertaken these works it is realistic to assume the works to have been undertaken whilst the Council inspected the ongoing works during 2014. I do not agree with that assumption, it is not accurate and precise enough to meet the test on the balance of probability, as inspection during works does not show when completion took place. It seems that the building control certification and sale is more likely to be closer to the date. I therefore do not consider that the appellant has shown on the balance of probability that the works were completed 4yrs prior to the notice and the appeal fails on ground (d).
29. I have considered the rooflights under the listed building notice and have concluded that apart from the two windows on the north slope, the others bring the building to a state in which it would have been if the terms and conditions of the listed building consent had been complied with. I shall therefore amend the notice to precisely identify the two rooflights to the northern roof slope of the cottage.

Graham Dudley

Planning Inspector

Annex 1

Allegation

The Matters Which Appear to Constitute The Breach of Listed Building Control

De Lacy Cottage and Hall are Grade II listed buildings that had been on the Buildings at Risk register for approximately 20 years. In 2012 extensive and urgent works were deemed necessary in order to ensure their preservation. These buildings are detached and separated by a wide driveway. They were constructed of timber frames with painted brick and render and with clay pantile roof tiles. The Cottage faces The Street and contains two front facing dormer windows. The Hall sits sideways on to the road and had two side facing catslide dormers. A 1m high brick wall marked the front boundary of the site. There is a vehicle access on the southern side between the cottage and hall and a pedestrian access to the front of the cottage. There is garden to the front and side of the cottage.

In 2012 planning permission and listed building consent were granted for the full refurbishment and extension of the cottage and the hall. The new extension was to form a link between the two to enable them to function as one house. These works have now been implemented. The works arising from the Listed Building Consent (S.12/0978/LBC) to the relevant buildings on the land have not been carried out to the approved plans.

The Listed Building Consent as approved in 2012, (S.12/0978/LBC) contained the the following conditions;

- 1) Notwithstanding the information already submitted, a report detailing all necessary repairs and alterations to both listed buildings including a specification of proposed internal and external materials to be used, shall be submitted to and approved in writing by the Local Planning Authority Services. The work shall then only be carried out strictly in accordance with those details.
- 2) Unless otherwise specifically described on the submitted plans, external and internal architectural structures, including roof timbers, floors, beams, other

features and fittings shall not be removed from the building and shall be retained in their present locations.

Notwithstanding the information already submitted, prior to their installation on site, large scale plans showing the design, construction, materials, surface finish and method of glazing of any new windows and doors to the listed buildings shall be submitted to and approved in writing by the Local Planning Authority. The works shall then only be carried out strictly in accordance with those approved details.

Prior to their installation on site, large-scale plans shall be submitted to and approved in writing by the local planning authority, showing details of the proposed new rooflights. The works shall then only be carried out strictly in accordance with those approved details.

Prior to their installation on site, large scale plans showing the design, construction, materials and surface finish and method of glazing to the glazing panels in the new extension; shall be submitted to and approved in writing by the local planning authority. The works shall then only be carried out strictly in accordance with those approved details.

Requirements

- a) The porch, as built, should be removed and the approved porch constructed in its place.
- b) The installed windows should be removed and the approved windows with wattle and daub cheeks and apex should be installed in their place.
- c) The installed decorative timber framing in the apex gable on the north wall of De Lacy Cottage should be removed and returned to its simple form.
- d) The rooflights should be removed and the pantile roof made good in accordance with the approved plans.
- e) The dormers should be removed and the approved dormers constructed in the locations shown on the approved plans.
- f) Remove the partitioning installed within the hallway of The Hall and re-instate the room to its plan form.
- g) Remove the first floor modern floorboards installed into The Hall building and re-instate the wide Elm floorboards together with the reinstatement of the timber frame between the crucks at the west end of The Hall at first floor level.
- h) Remove all the double glazed window panes and replace with single glazed panes
- i) Remove the modern fabric infill panels and replace with wattle and daub.
- j) Remove the installed barge boards and make good all resultant defects to the underlying fabric of the building
- k) Remove the installed wooden front boundary fencing. Remove the low brick walls and railings to the Courtyard between De Lacy Cottage and the Hall building