



Appeal Decision

Site visit made on 16 February 2021

by Thomas Shields DipURP MA MRTPI

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

Decision date: 18 May 2021

Appeal Ref: APP/Z2830/F/20/3258546

The Mill House, Mill Lane, Cogenhoe, Northampton, NN7 1NA

- 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 David Owen (Pure Leisure Group Ltd) against a listed building enforcement notice issued by the South Northamptonshire District Council.
 - The listed building enforcement notice was issued on 15 July 2020.
 - The contravention of listed building control alleged in the notice is without listed building consent, the replacement of the existing windows on the ground and first floor of the front elevation and windows on the ground and first floor of the southern side elevation of the property with double glazed units. The repainting of the units in a colour which does not match with the existing lintels and is not in keeping with the character of appearance of the original building.
 - The requirements of the notice are:
 1. Carefully remove the windows and framing inserted in the openings on the ground and first floor of the front elevation and the ground and first floor on the side elevation of the building.
 2. Remove the unauthorised windows and replace them with those that were originally removed from the building, or that replicate in terms of materials, design including glazing and colouring, to those which were removed and making good any damage with materials and methods that exactly match the existing building.
 3. Remove from the land all debris arising from these works.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1)(d) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed, the listed building enforcement notice is upheld and listed building consent is refused for retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Background and preliminary matters

2. Mill House is an imposing Grade II listed building dating from the early 18th century. Constructed of limestone rubble under a pantile roof it has a two-unit plan with two storeys and an attic. Single glazed timber casement windows at first and ground floor have been removed and replaced with the timber double glazed units subject of the appeal.
3. I note that since the enforcement notice was issued the appellant has discussed with the Council alternative timber double glazed units with a reduced internal gap between the two panes of glass. However, any potential alternatives would be a matter between the two parties in the first instance.

The ground (e) appeal before me is that listed building consent should be granted for the existing installed units subject of the notice.

Appeal on ground (d)

4. This ground of appeal is a claim that the works carried out were essential and urgent works necessary to preserve the listed building. The key words here are 'essential' and 'urgent'. As such, three tests must all be satisfied. Firstly, that the works were urgently necessary in the interests of safety or health; secondly, that it was not practicable to achieve the aims of safety, health or preservation of the building by repair or temporary support; and thirdly, that the works carried out were the minimum measures immediately necessary to achieve the aims of safety, health or preservation.
5. From the parties' submitted evidence it appears to me that at least some of the casements were in needs of replacement, and I acknowledge the appellant's desire to improve thermal standards and greater energy efficiency.
6. However, there is no convincing evidence before me to suggest that the works carried out were in themselves so urgently necessary for safety and health that listed building consent could not have been applied for beforehand. Moreover, there is no evidence to suggest that works for making the windows safe or for preservation of the building could not have been achieved by way of a more minimal temporary nature while an application for listed building consent was prepared. I accept that the appellant was unaware that any consent was necessary, but that does not circumvent the requirement to satisfy the three tests I have set out set above.
7. Consequently, the three tests are not satisfied and the appeal on ground (d) fails.

Appeal on ground (e)

Main Issue

8. An appeal on ground (e) is that listed building consent should be granted for the works referred to in the notice. The main issue is the effect of those works on the special architectural and historic interest of the listed building.

Reasons

9. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. Saved Policy HE5 of the South Northamptonshire Local Plan (1997) reflects the s16(2) duty and is a material consideration. I have also taken into account the provisions of the Framework¹ which is also a material consideration.
10. In addition to the side elevation openings there are eight windows to the front: six in the front elevation and two front-facing dormer windows. There is little architectural ornamentation to the elevations and hence, given their size, positioning and prominence, the form and composition of windows in this building are a significant feature of its overall character and historic interest.

¹ National Planning Policy Framework (2019)

11. I accept that the timber frames could be painted in an appropriate colour and this could be secured through a condition attached to a grant of listed building consent.
12. However, that would not overcome the more fundamental concerns I have regarding the overall effect on the building as a whole. Even subtle differences between historic fabric and proposed replacements can have a significantly harmful effect on the integrity and special interest of a listed building. In this regard the double glazed timber frames, particularly the glazing bars, do not have the fine and slender detailing and profile of those that were removed. The internal gap between the two panes results in a significant and noticeable reflective 'double-register' property from the glass, and the internal parting bead is somewhat noticeable. Overall, they appear as overtly modern double glazed units. Consequently, I find that these factors, taken together, harm rather than preserve the significance of the listed building, and fail to preserve its special architectural and historic interest.
13. In the language of the Framework the harm is 'less than substantial'. I note the appellant's references to the eco-thermal advantages of the double glazed units and their contribution to the long term viability of the structure. However, these do not provide a level of public benefits which can be said to outweigh the identified harm. Moreover, I see no reason why the same benefits could not be achieved with an alternative scheme of works which not result in such harm.
14. For all these reasons the appeal on ground (e) fails.

Thomas Shields

INSPECTOR