



Appeal Decision

Site visit made on 9 June 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2021

Appeal Ref: APP/R5510/F/20/3251076

Land at 51 Montague Road, Uxbridge, Middlesex UB8 1QN

- 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 and Mrs H S Heer against a listed building enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 18 March 2020.
- The contravention of listed building control alleged in the notice is: Without listed building consent, the execution of alterations and works to the Listed Building and the Curtilage Listed Building known as the Coach House, namely:
 - a. The installation of modern plasterboard (hardboard) on the ground floor, first floor and attic of the Main House;
 - b. The removal and covering up of timber lath and lime plaster from the ceilings at first floor of the Main House;
 - c. The enclosure of two fireplaces on the first floor of the Main House;
 - d. The installation of the half glazed, timber modern main front entrance door;
 - e. The installation of rear dormer to rear roof slope;
 - f. The installation of a uPVC entrance door to basement;
 - g. The installation of tile flooring in the basement of the Main House;
 - h. The application of paint and plaster finish to the walls in the basement of the Main House;
 - i. The installation of partition walls on the first floor of the Coach House to enclose the staircase and create two additional rooms; and
 - j. The installation of tile flooring on the ground floor of the Coach House.
- The requirements of the notice are:
 - (i) Remove all modern plasterboard (hardboard) from the walls of the Main House from the ground floor, first floor and attic and replace with a breathable wood fibre board with a lime finish;
 - (ii) Remove all modern plasterboard (hardboard) from the ceilings of the first floor of the Main House and reinstate the ceilings with a timber lath and lime plaster finish;
 - (iii) Remove modern plasterboard (hardboard) to reveal and open up the fireplaces on the first floor located in the rear bedroom and front left hand side of the Main House;
 - (iv) Remove the existing main entrance front door and replace it with a traditionally constructed six panel timber door to match the appearance of the main front entrance door on the attached property known as 53 Montague Road;
 - (v) Remove the existing rear dormer from the rear roof slope of the Main House and make good to match the existing roof slates;
 - (vi) Remove the uPVC door from the entrance to the basement at the rear of the Main House and replace it with a traditionally constructed timber door to match the appearance of the existing front entrance door of Main House, with plain glazing;
 - (vii) Remove existing tile flooring from the basement of the Main House;
 - (viii) Remove all existing paint and plaster finishes from the walls of the basement of

- the Main House;
 - (ix) Remove all partitions from the first floor of the Coach House except those enclosing the bathroom; and
 - (x) Remove the existing tile flooring from the ground floor of the Coach House.
 - The period for compliance with the requirements is six (6) calendar months.
 - The appeal is made on the grounds set out in section 39(1) (b), (c), (d), (e), (g), (h) and (i) 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 deleting the wording "*ground floor,*" from allegation (a) and requirement (i).
 - corrected by deleting the wording "*two fireplaces*" in allegation (c) and replacing it with "*a fireplace*".
 - corrected by deleting all the wording in requirement (iii) and replacing it with "*Remove modern plasterboard (hardboard) to reveal and open up an existing fireplace in the front left hand side bedroom on the first floor of the Main House;*".
 - varied by deleting the wording, "*Time for compliance: six (6) calendar months*" in Paragraph 5, and substituting it with "*Time for compliance with requirements (i), (ii), (iii), (iv), (vi), (vii), (viii), (ix), (x): six (6) calendar months and for requirement (v): nine (9) calendar months*".
2. The appeal is allowed on ground (e) in so far as it relates to items (a), (b) and (i) and listed building consent is granted for the retention of modern plasterboard on the first floor and second floor walls and ceilings in the Main House and for the retention of partition walls on the first floor of the Coach House to enclose the staircase and create two additional rooms.
3. The appeal is dismissed and the listed building enforcement notice is upheld as corrected and varied, insofar as it relates to the works to first floor bedroom fireplace, installation of modern door to the front entrance door and uPVC basement door, installation of a rear dormer, installation of tile flooring to the basement of the Main House and ground floor of the Coach House, and application of paint and plaster finish to the walls of the basement of the Main House, and listed building consent is refused for the retention of these works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

The Appeal Site

4. The appeal site is a grade II listed house which dates from the mid nineteenth century. The house forms one half of a semi-detached property with a central carriageway leading to a coach house at the rear, which is subdivided into two, one half for each house. The property was listed in 1974. The house is on four floors: lower ground, upper ground, first and second, and the second is within a dormer extension.
5. Based on the evidence before me and my own observations on my site visit, the significance of the building as a heritage asset is mainly derived from the historic evidence it provides to the growth of Uxbridge, and to its fine

architectural detailing and proportions, including its central carriageway and front door under a gauged elliptical and round brick arch, sash windows and ground floor canted bay.

Main Issues

6. The Council have identified 10 different issues (a) to (j). The appeal is made on a variety of grounds which apply to different issues in differing combinations. Essentially the appellant is either arguing the matters have not been carried out as a matter of fact, or that they were carried out before the building was listed and there was therefore no breach of control in respect of them. It is further argued in some cases that the works were necessary to preserve the building or for health and safety reasons and that some of the requirements would not restore the character of the building to its former state. As a final resort, if I disagree with those arguments, they ought to be granted listed building consent as there is no harm to significance. I shall therefore address each allegation/requirement in turn, considering the various grounds as appropriate.
7. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (the Act) requires special attention to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

Reasons

The installation of modern plasterboard on the ground floor, first floor and attic of the Main House (a)(i).

Appeal on grounds (b), (c), (e) and (i)

8. The appellants state that they have not installed any modern plasterboard or hardboard on the ground, first floor or attic of the Main House and the wall coverings were present when the house was purchased in 2018 and believed to have been in place since 1971. They were therefore the original walls when the property was first listed.
9. A letter from a previous owner has been provided to support the appellants' claim, and this states that a lot of plaster to the walls and ceilings was replaced in the first 2/3 years after she purchased the property in 1968.¹ However, no specific details of when those works took place or the extent of them has been provided and the letter does not have the legal status of a Statutory Declaration. On the other hand, it is clear from the dated photographs that accompanied the Council's Statement that new plasterboard was being installed in all of the first floor bedrooms and the attic room during June 2018.
10. However, the Council has not provided any substantive evidence that new plasterboard has been installed on the ground floor. There is no evidence of any plasterboard in the ground floor living room or kitchen and I saw nothing on my site visit. I noted that the original cornice and skirting boards remain. Consequently, I will delete the reference to the ground floor from item (a) of the allegation and from (i) of the requirements of the enforcement notice, and the appeal on ground (b) in respect of those alleged works to the ground floor only succeeds.

¹ Appendix 1, Appellant's Statement of Case.

11. In terms of the first floor, although it is clear that new plasterboard has been installed in the first floor bedrooms (Figure 6 Council's Statement of Case (SOC)), the 2017 sales particulars (Figure 7 SOC) indicate that the walls within the front bedroom had previously been altered. New fitted cupboards had been installed and the original architrave, existence of which is seen in Figure 6, had already been removed and original plaster covered. Furthermore, Figure 24 of the SOC shows evidence of the walls in the now rear bedroom to have been previously tiled and the remains of gypsum plaster. I consider that it is now impossible to come to a definitive view on when alterations to the first floor walls initially took place.
12. In terms of the second floor, the appellant has clearly removed tongue and groove timber boarding to the walls and replaced it with plasterboard. However, even if the timber boarding shown in Figure 3 of the SOC had been installed after the building was listed, the appellant could only be asked to restore the building to its condition at the time of listing, and I have no knowledge of what that condition was.
13. I accept that the new plasterboard gives the rooms a more refined and less textured finish than lath and plaster, and that it may also affect the breathability of the original walls. However, this is only on a small part of the building. I have not been provided with any evidence of damp within the first or second floors nor that any original lath and plaster has been removed. Whilst the requirement to replace with breathable wood fibre board may improve the breathability of the building, there would be minimal change to the appearance or character of the rooms. In my view the amount of work that would be required to remove the new plasterboard is likely to cause more harm to the fabric of the building, and likely to result in the loss of original lath and plaster. Taking into account the significance of the heritage asset, and the requirements in the notice, although finally balanced, I consider that there are heritage benefits of not undertaking further works to the first and second floor walls that outweigh the minimal harm that the installation of new plasterboard has caused to the special character and historic interest of the building.
14. I shall therefore grant listed building consent for these alterations.

The removal and covering up of timber lath and lime plaster from the ceilings at the first floor of the Main House (b)(ii).

Appeal on ground (b), (c), (d), (e) and (i)

15. Notwithstanding the appellants' claim that the repair using plasterboard was done prior to the building being listed, they do not believe that it is possible to remove and cover up the lath and plaster. However, the Council has produced photographs which show in June 2018, areas of the ceiling in the first floor bedroom where lath and plaster had been partially removed/damaged and the ceilings being over boarded with plasterboard.² I am therefore satisfied that the allegation at item (b) is correct and the breach of control has taken place as a matter of fact.
16. The installation of plasterboard with a skim of plaster gives the walls and ceiling an untextured and smooth finish which affects the character of this listed building. Those works therefore require listed building consent.

² Figs. 4 and 5 of the Council's Statement of Case.

17. A ground (d) appeal addresses situations where essential and urgent works were needed to preserve the listed building. The emphasis is on the words '*essential*' and '*urgent*' and the '*need to preserve*'. This ground of appeal comprises three tests. The first is whether the works were urgently necessary in the interests of health and safety; 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 necessary to achieve the aims of safety, health and preservation. For the appeal to succeed on ground (d) all three tests must be met and the onus is on the appellant to conclusively show that this is the case.
18. The appellants claim there was a need to repair the first floor ceilings to ensure that loose plaster and falling debris did not pose a threat to occupants of the room. However, whilst falling debris is a relevant health and safety issue, no evidence has been put forward to indicate that the works were so urgently required to be carried out in this manner or that the steps taken were the minimum necessary to achieve the health and safety aims.
19. Consequently, the works carried out to the ceilings fail all three tests and must also fail on ground (d).
20. The main issue on ground (e) is the effect of the works on the character, appearance and integrity of the listed building and on its features of special architectural interest.
21. I have not been provided with any substantive evidence that lath and plaster, which was indubitably the original form of construction, has been completely removed from the ceilings. Although Figure 5 of SOC shows some damage to the original ceiling, it seems likely from the evidence in Figure 4 that the original lath and plaster ceilings remain and have been boarded over with new plasterboard.
22. I appreciate that modern plasterboard has a smooth and refined finish which lacks the texture of traditional lath and plaster. However, taking into account my findings on the alterations that have taken place to the first floor bedroom walls and that there has not been any significant loss of the building's historic fabric, I consider that there are heritage benefits of not undertaking further works to the first floor ceilings, as such works would undoubtedly result in a greater loss of original lath and plaster. Those heritage benefits outweigh the minimal harm that has been caused to the special character and historic interest of the building, by the installation of new plasterboard. Listed building consent for those alterations will consequently be granted.

The enclosure of two fireplaces on the first floor of the Main House (c)(iii).

Appeal on ground (c) (e) and (i)

23. The appellants state that the first floor fireplaces were boarded up before the building was listed, and that this is supported by the letter from a previous owner. However, the letter does not provide any specific details of which fireplaces were boarded, and the photographs which accompany the letter and said to illustrate those works, only show the recent plasterboard in the rear bedroom. On the other hand, the photographs in Figures 6 and 24 of the Council's SOC show plasterboard being installed on the chimney breast in the

front bedroom in June 2018 and show the rear bedroom with the fireplace exposed.

24. I have not been provided with any substantive evidence that the two fireplaces referred to in the alleged breach contained an historic grate or fire surround. The requirement is solely to remove modern plasterboard to reveal and open up two existing fireplaces.
25. From the evidence before me, including Figure 24 of the SOC and my own observations on my site visit, the new plasterboard to the walls in the rear bedroom has been installed around the fireplace and does not enclose or obscure it. Evidence of the fireplace therefore remains, and the installation of the plasterboard has not affected the architectural or historic merit of the building. I shall therefore remove reference to the fireplace in the rear bedroom from item (c) and requirement (iii).
26. Although new plasterboard has been installed by the appellant on the chimney breast in the front bedroom, I accept that this chimney breast and any fireplace within it, was previously incorporated within fitted cupboards. However, I have not been provided with any substantive evidence that those previous alterations took place before the building was listed. The original dwelling would have had a fireplace in this front bedroom and to enclose and obscure evidence of it would not preserve the special interest of the building. The requirement to remove the plasterboard to reveal and open up the fireplace would alleviate the effect of the works.
27. The harm identified is less than substantial to the significance of this heritage asset, however it is not outweighed by any public benefit. The development is therefore contrary to paragraph 202 of the National Planning Policy Framework (the Framework), and the design and heritage aims of Policies DMHB1 and DMHB2 of the Hillingdon Local Plan: Part 2 Development Management Policies (LP). The appeal on ground (e) therefore fails and listed building consent is refused for this alteration.

The installation of the half glazed, timber modern main front entrance door (d)(iv).

Appeal on ground (c) (e) and (g).

28. The appellants claim that the door that has been installed has been there for over 30 years and is consistent with the description on the listing. However, the Council has produced photographs (Figures 8 & 9 SOC) which show No 51 with the same six panel door in both 1933 and 1974. That door is quite different from the modern half glazed four panel door which has been installed. The existing door was clearly installed after the building was listed and alters the character of the building.
29. The front door is a modern timber half glazed door. It has two panels in the bottom half and the top is split into six panes of glass, three of which have bull's eye glass. Its overall design and appearance, and in particular the glass and its arrangement do not reflect the character of the building, including its original traditional joinery and detailing. It fails to preserve the architectural and historic interest of the listed building and, in accordance with s.16(2) of the Act, I must have special regard to the harm that this has caused when considering whether to grant listed building consent.

30. The harm I have identified is less than substantial to the significance of this heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to paragraph 196 of the Framework and the design and heritage aims of Policies DMHB1 and DMHB2 of the LP. The appeal on ground (e) therefore fails and listed building consent is refused for this alteration.
31. On ground (g) the appellant claims that the requirements of the listed building enforcement notice exceed what is necessary for restoring the building to its previous state. Taking into account the historic photographic evidence submitted by the Council, the requirement to replace the door with a six panel traditionally constructed door to match that at No 53 does nothing more than seek to take the building back to the condition it was in before the unauthorised works were carried out. The appeal on ground (g) consequently fails.

Dormer Window (e)(v).

Appeal on grounds (b) (c) and (e)

32. There is no doubt that the dormer was installed prior to the appellants purchasing the property, however, the appellants have not produced any substantive evidence that it was installed prior to the building being listed. The letter from a previous owner is not in the form of a Statutory Declaration and is not sufficiently precise as to the date the dormer was installed. Furthermore, the photographs provided do not corroborate her recollections, as the photograph of the attic was taken after the appellants had removed the timber boarding and replaced it with plasterboard. I therefore give this evidence little weight. Whilst accepting that the list description does not always include a full description of a property, in this case there is no mention of a dormer, just a slated roof. In the absence of any substantive evidence to demonstrate otherwise, and taking into account its design and appearance, on the balance of probabilities the dormer was constructed after the building was listed. The appeal on grounds (b) and (c) therefore fail.
33. The roof has been extended to the rear with the construction of a box style dormer window clad with hanging blue slates, a casement timber window and plastic guttering.
34. The dormer disrupts the simple plane of the roof and the visual cohesion it previously had with the roof of the adjoining half of the semi has been lost. The overall design and form of the dormer is an incongruous addition to the property, and it fails to preserve the architectural and historic interest of the listed building.
35. I appreciate that there are examples of other roof extensions in the street. However, none of those other examples are directly comparable to the dormer window that has been constructed in this appeal, either in terms of their design and appearance or that of the host property. I therefore give this consideration little weight.
36. The harm I have identified is less than substantial to the significance of this heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to paragraph 202 of the Framework and to the design and heritage aims of Policies DMHB1 and DMHB2 of the LP. The

appeal on ground (e) therefore fails and listed building consent is refused for this alteration.

Installation of tile flooring in the basement of the Main House and the ground floor of the Coach House (g) & (j) (vii) & (x).

Appeal on grounds (d), (e) and (i)

37. Under ground (d) the appellants submit that it was necessary to install the tiles on the basement floor of the Main House and within the ground floor of the Coach House to cover up an uneven and broken concrete floor. In addition, they considered that the tiles were necessary to deal with a damp issue in both the basement and Coach House.
38. The issue of damp is a relevant issue in respect of the preservation of the building. However, the works have not preserved the building. The installation of porcelain tiles to the floors will only exacerbate the damp problems as the tiles are impervious. Furthermore, the laying of an entirely new floor is not the minimum necessary to achieve preservation, which in any event has not been achieved. The works carried out to the floors fail on ground (d).
39. The porcelain tiles have a harmful effect on the character of the building. Notwithstanding the harm that their impervious quality might have on the historic fabric and condition of the building, the floors in the basement and Coach House would historically have been characterised by raw traditional building materials. The high gloss finish and appearance of the porcelain tiles has a harmful effect on the character and special interest of the listed building and fails to preserve it.
40. The harm I have identified is less than substantial to the significance of this heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to paragraph 202 of the Framework and the design and heritage aims of Policies DMHB1 and DMHB2 of the LP. The appeal on ground (e) therefore fails and listed building consent is refused for this alteration.
41. On ground (i) the appellant claims that the steps required by the notice would not restore the character of the building to its former state and to remove the tiles would expose the underlying cracked concrete and would not assist in preserving the character of the listed building. However, I have found that the tiles do not preserve the special interest of the building and from the evidence before me, removing the tiles would take the character of the building back to its former state. The appeal on ground (i) consequently fails, and any future improvement to the floor should be discussed with the Council.

The application of paint and plaster finish to the walls in the basement of the Main House (h) (viii).

Appeal on ground (b) (c) (d) (e) and (i)

42. The appellants state that the walls have not been plastered. They have applied paint but were merely refreshing paint previously applied before the building was listed. In addition, it is their view that painting does not affect the character of the building and that it prevents damp from forming on and soaking into the walls, thus preventing their deterioration.

43. From my observations on my site visit there is evidence of plaster and paint on the walls of the basement. No substantive evidence has been provided that would demonstrate to me that these works were undertaken before the building was listed. The paint that has recently been applied appears to be a sealant paint, and its application will almost certainly affect the breathability of the building. Contrary to the appellants' assertion, the application of paint and plaster to the walls will only exacerbate damp in the basement, which is clearly the case given the recent need for a dehumidifier in the basement. This alteration therefore has a harmful effect on the fabric the building and has not preserved it.
44. The harm I have identified is less than substantial to the significance of this heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to paragraph 202 of the Framework and the design and heritage aims of Policies DMHB1 and DMHB2 of the LP. The appeal on ground (e) therefore fails and listed building consent is refused for this alteration.
45. On ground (i) the appellant claims that the steps required by the notice would not restore the building and may be seen to be adverse to its quality. However, removing the paint and plaster finish will allow the walls to breathe and would take the character of the basement back to its former state. I appreciate that given the use of the basement as living accommodation it may be necessary for the appellant to discuss with the Council a more acceptable solution to the treatment of the walls. However, the requirement to remove the existing paint and plaster finish is the minimum necessary to preserve the building. The appeal on ground (i) consequently fails.

Installation of partition walls in the first floor of the Coach House to enclose the staircase and create two additional rooms (i)(ix).

Appeal on grounds (c), (e) and (i)

46. The appellants claim that the two additional bedrooms were formed by the previous owner and prior to the house being listed. The partitions have merely been updated. However, the Council has produced photographic evidence in the form of sales particulars for the house in 2017 which show that previously a partition at first floor level enclosing the staircase did not exist. That partition has clearly been installed since 2017. In addition, building regulation plans produced by the Council dated 1971 show a proposal to install a toilet at first floor and confirm that the existing partitions at first floor level were not in place at that time. On the balance of probabilities, the partition walls installed at first floor level to enclose the staircase and create two additional rooms took place after the building was listed and have altered the character of the building. The appeal on ground (c) therefore fails.
47. The Coach House is curtilage listed by reason of its existence on the Land since before 1 July 1948. Its significance as a heritage asset is primarily derived from its historic use in connection with Nos. 51 and 53 Montague Road. The original use ceased many years ago and prior to the listing of No 51. A new floor, staircase and toilet have all been added as well as alterations to the building's fenestration. Whilst I appreciate that historically this building would have been characterised by an open space, the provision of new stud walls internally would not have a significant impact on the architectural or historic interest of this curtilage building. The historic significance of the building as an

ancillary structure remains evident, there has not been any loss of original fabric and the change in the plan form of this building represents less than substantial harm to the significance of the building.

48. Paragraph 202 requires that the less than substantial harm is balanced against any public benefits including securing the optimum viable use of the heritage asset. I consider the current arrangement upstairs has produced a workable arrangement for the building's use. The original plan form is still visible from the roof trusses, and indeed reproduceable if wanted, so the impact on significance is small. I shall therefore grant listed building consent for the first floor partitions. The appeal on ground (i) does not fall to be considered.

Appeal on ground (h)

49. The issue is whether the compliance period of six months is reasonable. The appellants suggest that a period of 18 months would be more reasonable, taking into account the works required to the roof and need to find suitable contractors.
50. I agree with the Council that six months is sufficient time to replace the doors, remove the tiles from the basement and Coach House, to remove plasterboard to reveal the front bedroom fireplace and paint and plaster finish from the basement walls. Given the harm that the paint and tiles may be causing to the fabric of the building, a six month period is reasonable.
51. However, the works to the roof would involve relocating a child's bedroom and is more reliant on sourcing contractors and good weather. The conclusion that I have come to is that a period of nine months would be a more reasonable time period for compliance, given the circumstances of this case. To this limited extent the appeal on ground (h) succeeds.

Conditions

52. The Council has requested that should listed building consent be granted then the decision to grant consent should be subject to conditions that require the appellants to provide a full schedule and detailed floor plans recording all the works they have undertaken. However, taking into account the detail of the works specified in the enforcement notice, which are a result of the Council's investigations, and the findings in my decision letter, I do not consider that the suggested conditions are reasonable or necessary.

Conclusion

53. I shall correct the notice to remove any references in the requirements to the matters where there has been success on grounds (b) or (c) – that is part of the requirements in items (a)(i) and (c)(iii) and I shall correct the allegation to refer directly to the matters that require consent. I shall then issue a split decision to grant consent for the matters covered by requirements (i) (ii) and (ix) and uphold the notice and refuse consent for the matters covered by requirements (iii), (iv), (v), (vi), (vii), (viii) and (x) with a variation on the time for compliance with requirement (v).

Elizabeth Pleasant

INSPECTOR