



Appeal Decision

Site visit made on 16 March 2022

by **F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal Ref: APP/P2935/Y/22/3290177

Felton Park Lodge, B6345 Old Swarland to Riverside, Felton NE65 9EB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to vary or discharge conditions of a listed building consent.
 - The appeal is made by Mr Stephen Hall against the decision of Northumberland County Council.
 - The application Ref: 20/02979/DISCON, dated 10 September 2020, sought to discharge conditions Nos 3, 4, 5 and 6 of a listed building consent Ref: 17/02196/LBC granted on 22 December 2017.
 - The works proposed are 'Alterations to window positions and fenestration to dining room. Additional window to sitting room. Re- slating of roof and replacement of concrete ridge tiles with metal sheet roll. Replacement of chimney stack. Renovation of interior wet rot damage. Alterations to dining room plan and layout of lower level.
 - The conditions in dispute are Nos 3, 4, 5 and 6 which state that:
 - Condition 3:** Prior to the construction of the chimney stack hereby approved, samples of the proposed stonework to include -Sample of the proposed stone and -Details on the coursing of stone. Shall be submitted to and approved in writing by the Local Planning Authority, the construction of the chimney shall be carried out in accordance with the approved sample/details and retained thereafter.
 - Condition 4:** Notwithstanding details contained within the approved plans, prior to the installation of any new plasterboard or application of a gypsum based plaster along with any associated timber studwork, a schedule to include -Locations of the proposed intervention and -Justification for the non-traditional method. Shall be submitted to and approved in writing by the Local Planning Authority, any approved installation of plasterboard shall be carried out in accordance with the approved sample/details and retained thereafter.
 - Condition 5:** Notwithstanding details contained within the approved plans, prior to the installation of new services (which for the purposes of this condition includes and form of ducting, heating or plumbing pipe/channel and electrical installation) a plan setting out -The proposed routing of services and -Method of intervention Shall be submitted to and approved in writing by the Local Planning Authority, the service installations shall be carried out in accordance with the approved plans and retained thereafter.
 - Condition 6:** Notwithstanding details contained within the approved plans, prior to the installation of any new roof finish or rainwater goods, details to include -Locations of the proposed interventions. Shall be submitted to and approved in writing by the Local Planning Authority, the works to the roof shall be carried out in accordance with the approved samples/details and retained thereafter.
 - The reason given for **Conditions 3, 4, 5 and 6** is: In the interests of the Listed Building in accordance with Policy S15 of the Alnwick LDF Core Strategy.
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Decision

1. The appeal is dismissed and approval of details is refused, namely: details submitted pursuant to Conditions 3, 4, 5 and 6 of Listed Building Consent Ref: 17/02196/LBC granted on 22 December 2017.

Preliminary Matters

2. Northumberland County Council adopted the Northumberland Local Plan 2016-2036 (the NLP) on 31 March 2022. This replaced the Alnwick District, Core Strategy Development Plan Document, 2007. Both main parties were given the opportunity to comment on the implications of this change in relation to the appeal. No responses were received. I have therefore determined the appeal against the statutory duties within the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and guidance within the National Planning Policy Framework, published July 2021 (the Framework). I am satisfied that the interests of the parties have not been prejudiced by this approach.
3. The reason for the appeal as cited in the appeal form is 'Granted listed building consent for the development subject to conditions to which you object' (Section G, 2). However, any appeal made directly against a condition imposed on a listed building consent is required to be made within six months of the original grant of consent. As the original listed building consent was granted on 22 December 2017, any appeal made on this basis was required to have been submitted by 22 June 2018, which is not the case in this instance. Furthermore, the application which was refused by the Council and is the subject of the appeal was for the 'approval of details reserved by condition'.
4. Therefore and for the avoidance of doubt, I have determined the appeal on the basis that it is against a refusal to discharge conditions of a listed building consent and focussed my considerations on whether the details submitted pursuant to the conditions would meet their requirements. In these regards, whilst I note the appellant's assertions that the conditions are 'unnecessary' 'unreasonable' and/or 'superfluous', an assessment of whether they are necessary and/or reasonable is outside the scope of this appeal.
5. It is not clear whether all of the information submitted with the appeal was presented to and before the Council in their determination of the application, namely the 'justification' for the detail of the works as required under Condition 4 and drawing ref: A(21)01-Ext Wall Detail. The Procedural Guide, Planning Appeals-England, advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought¹.
6. Having regard to the 'Wheatcroft Principles'², given that the Council had an opportunity to comment on the justification and drawing as part of the appeal, I consider that accepting such information would not deprive those who should have been consulted on the opportunity of such consultation. My determination of the appeal has therefore included consideration of the justification and drawing ref: A(21)01.

¹ Annexe M, Procedural Guide Planning Appeals – England. April 2022.

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

7. The site address as stated in the application form is 'Land North East Of Felton Park Lodge'. However, the site address as stated in the appeal form is 'Felton Park Lodge'. From the evidence before me and my observations on site, it is clear that the proposed works relate to the building rather than the land. I have amended the site address in the heading above accordingly.
8. Within the submitted evidence the appellant advises that the works as approved under application Ref: 17/02196/LBC have commenced and are ongoing on site, including removing rotten fabric such as timber ceiling joists, door frames, plaster with supporting lathes and skirting boards. This was confirmed on my site visit.

Background and Main Issue

9. The appeal property is a Grade II listed building, referred to in the listed building description as 'Park Lodge, Riverside'³. Dating from circa 1800, it is a single-storey gate lodge constructed of stone with a brick chimney stack and a Welsh slate roof. From the evidence before me, the building's special interest and significance are principally derived from its historic and architectural interests as a 19th century gate lodge, to which its surviving historic fabric of traditional materials, along with its aesthetically pleasing form, make important contributions.
10. The property is located within the Felton Conservation Area (the FCA). The special interest of the FCA stems in part from the linear pattern of development of mostly stone and slate buildings either side of the main route through the village, the more dispersed development along the riverside and the picturesque bridging point across the River Coquet, all of which are set within a wider verdant landscape. Whilst the appeal property is currently in a dilapidated state and fenced off, by virtue of its heritage merit and place within the cherished local scene, it positively contributes to the character and appearance of the FCA and therefore to its significance as a designated heritage asset.
11. The appeal follows the refusal of an application for the approval of details required by conditions attached to a listed building consent by reason of insufficient information provided⁴.
12. In the context of the above, the main issue is: whether the details submitted meet the requirements of Conditions 3, 4, 5 and 6 and demonstrate that the proposed works would preserve the special interest of the Grade II listed building known as 'Park Lodge, Riverside', and preserve or enhance the character or appearance of the FCA.

Reasons

13. The power to impose conditions on a grant of listed building consent is set out in section 17 of the Act. The variation or discharge of such conditions is stated in section 19 of the Act. In meeting the statutory duties under the Act as well as national and/or local policy guidance, it is vital that the Council is content that the details submitted to discharge any conditions are sufficient to meet their specific requirements.

³ List entry number 1154724.

⁴ Substantive application Ref: 17/02196/LBC granted on 22 December 2017. Discharge of conditions application Ref: 20/02979/DISCON, refused 6 July 2021.

Condition 3

14. Condition 3 relates to the construction of the chimney stack and requires samples of the proposed stonework to include, a sample of the proposed stone and details on the coursing of stone. Details submitted pursuant to this condition comprise drawing ref: A(21)03-Chimney Stack Detail, dated March 2017. No 'samples' have been provided, although I note that the appellant intends to source a new sample of the proposed stone 'once approval of the coursing of stone is received'.
15. Whilst the wording of Condition 3 is clear regarding the need to submit a sample of the proposed stone, it does not specify what is required in terms of 'details on the coursing of stone'. I acknowledge that drawing Ref: A(21)03 confirms the proposed stack's overall dimensions (at a scale of 1:20), form and construction. However, given that this drawing was submitted with the original application, it provides no additional information than was before the Council in 2017 when it granted listed building consent for the proposed works. It logically follows that these details would not meet the requirements of the condition, as it does not provide any greater clarity on the coursing of the stone, be it by the preparation of a sample panel and/or large scale drawing.
16. Accordingly, I find that the information submitted would not meet the requirements of Condition 3.

Condition 4

17. Condition 4 relates to the installation of any new plasterboard or application of a gypsum based plaster along with any associated timber studwork. It requires the submission of a schedule including the locations of the proposed intervention and justification for the non-traditional method. Details submitted pursuant to this condition comprise the description as stated in section 6 of the application form; drawing ref: A(21)01-Ext Wall Detail, dated March 2017; and further details of the proposed works and justification for their implementation in the appellant's grounds of appeal. However, I note that the works as described in the application form relating to the 'front room' and 'smaller room' do not correspond to the submitted drawing.
18. The appellant declares that the required 'locations of the proposed intervention' could not be clearer as it relates to all external walls. Nevertheless, given the inconsistency between the application form and drawing, I am not satisfied that this matter is sufficiently transparent in terms of the intervention's location or what form it would take.
19. I have no reason to dispute the issues cited by the appellant which have resulted in the proposal to employ a 'non-traditional method' in relation to the internal finish of the walls. These include a high water table that causes severe rising damp which has not been effectively mitigated by additional drainage systems around the building, along with the presence of adjacent tall trees which limit the amount of sunlight the building receives. On site I also observed the poor condition of the surviving sections of lath and plaster.
20. Nevertheless, traditional buildings need to 'breathe'. The introduction of materials and systems that do not maintain permeability of the structure can exacerbate existing problems and/or create new ones. I have significant concerns regarding the introduction of a 'vapour barrier' against the stonework

and the consequences that this may have for the listed building in terms of compounding the issues caused by the rising damp. This concern applies to the method as described in the application form or as shown in the drawing ref: A(21)01.

21. I recognise that in order for the building to maintain its optimum viable use as a residential property, it is reasonable for occupants to expect the building to maintain an acceptable level of comfort and energy efficiency. However, there is no substantive evidence before me which robustly confirms that the 'non-traditional method' proposed is the only solution available to achieve the desired outcomes and/or the most appropriate in relation to the conservation of the building's historic fabric.
22. Therefore, I find that the information submitted is inconsistent and insufficient. As such, it would not meet the requirements of Condition 4.

Condition 5

23. Condition 5 relates to the installation of new services, namely ducting, heating or plumbing pipe/channel and electrical installation. It requires the submission of a plan setting out the proposed routing of services and method of intervention. In pursuant of this condition the appellant has described the positions where the services would be installed. In addition, annotation on drawing ref: A(21)01-Ext Wall Detail, dated March 2017 confirms the formation of a service duct behind the skirting for electrical wiring, heating and hot water pipes as well as the position of underfloor heating pipes. Reference is also made to drawing ref: L(56)(61)01, stated to have been submitted with the original application and which illustrates the proposed underfloor heating layout of pipework. However, this drawing has not been submitted with the appeal.
24. Condition 5 is clear in its requirement of a plan showing the routing of services and method of intervention. As a comprehensive plan in this regard has not been provided, the requirements of the condition would not be met. I have considered the appellant's description of where the services would be located and note that they would be installed in accordance with relevant Codes of Practice and Building Regulations. However, the lack of a plan and reliance on a description which, of itself is quite vague, results in a level of ambiguity in relation to the detail of these works to the listed building which is not appropriate or acceptable.
25. Given the sensitivity of historic buildings to the intervention of modern services, a condition requiring the submission of further details of this nature as part of a grant of listed building consent is not uncommon. Moreover, that the services would be hidden from view is not determinative as listed buildings are safeguarded for their inherent architectural and historic interests.
26. Accordingly, I find that the information submitted does not provide sufficient clarity or certainty regarding these works and, as such, would not meet the requirements of Condition 5.

Condition 6

27. Condition 6 relates to the installation of any new roof finish or rainwater goods. It requires the submission of details including the locations of the proposed interventions. Details submitted pursuant to this condition comprise drawing

refs: L(--)11B-Roof Plan of Existing and Proposed, dated Jan 2009; and A(27)01-Roof Detail, dated Dec 2014.

28. The Council has not commented on the acceptability of the roof detail as shown on drawing ref: A(27)01. From the evidence before me and my observations on site, the detail of the works would be appropriate for a building of this age and form, as well as being in line with good conservation practice. It is therefore acceptable in principle.
29. Nevertheless, I am mindful that these drawings provide no additional detail beyond that previously considered by the Council. Neither confirm the location of the proposed works to the roof and the rainwater goods. Moreover, whilst the appellant has submitted a summary of these works as part of the appeal, I am not satisfied that this provides the degree of clarity required by the condition.
30. Accordingly, I find that the information submitted is deficient and would not meet the requirements of Condition 6.

Other Matters

31. I note that the position of the 'lead roll finish to hip' in relation to the base of the chimney stack as shown on drawing ref: A(21)03 does not match drawing ref: L(--)11B. It is imperative that drawings are accurate and consistent to avoid uncertainty about what is proposed. However, as I am dismissing the appeal, it has not been necessary for me to consider the accuracy of the plans any further.
32. The appellant has highlighted the protracted determination period of the application which is the subject of the appeal, along with the alleged conduct of the Council during that time. However, such matters are not for my consideration in the context of an appeal under section 20 of the Act.
33. I acknowledge the appellant's plans to renovate the appeal property which date back over two decades and his investment into the building during this time. I also recognise the ongoing problems of anti-social behaviour, vandalism and theft at the site. Nonetheless, these matters do not lead me away from my conclusions in relation to the discharge of Conditions 3, 4, 5 and 6.

Overall Conclusion

34. Drawing the above together, I find that the details submitted would not meet the requirements of Conditions 3, 4, 5 and 6. On this basis, I conclude that it has not been satisfactorily demonstrated that the proposed works would preserve the special interest of the Grade II listed building known as 'Park Lodge, Riverside', and preserve or enhance the character or appearance of the FCA. Therefore, I cannot be certain that the proposed works would meet the requirements of sections 16(2) and 72(1) of the Act. Nor can I be sure that they would not harm the significance of these designated heritage assets and thus comply with the provisions within the Framework which seek to conserve and enhance the historic environment.
35. Accordingly, for the reasons given above, I conclude that the appeal should be dismissed.

F Cullen INSPECTOR