



Appeal Decisions

Site visit made on 12 July 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal A Ref: APP/F1610/F/22/3301911

Middle Hill Farm, Saintbury, Broadway, Gloucestershire, WR12 7PX

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
- The appeal is made by Mr John Hastings Evetts against a listed building enforcement notice issued by Cotswold District Council.
- The enforcement notice was issued on 26 May 2022.
- The contravention of listed building control alleged in the notice is:
 - i. the blocking of a window opening of 18th or 19th century date, and the insertion of a new, three-light mullioned window through an adjacent area of intact historic walling at first floor, on the rear of the 17th-century part of the building;
 - ii. The creation of a double-door width opening between the proposed entrance lobby & kitchen/breakfast room in the 18th-century part of the house;
 - iii. The relocation of the single-door opening between the entrance lobby and dining room;
 - iv. The removal of the stair in the 17th-century part of the building;
 - v. The replacement of the already missing fireplace in the panelled, first-floor room with an historically-inappropriate design;
 - vi. The use of expanding foam on at least three windows and around the front door and its canopy supports;
 - vii. The removal of an historic stone boundary wall attached to the south-east corner of the house, enclosing the south side of the front garden;
 - viii. The implementation of a partition wall within the 17th-century part of the building; and
 - ix. The construction of a breezeblock wall faced with stone within the courtyard.
- The requirements of the notice are
 - (i) The first-floor mullioned window on the west elevation, as shown on drawing 100.010 Rev A, shall be removed and the historic wall shall be reinstated, as shown in the Appendix, with the materials, construction technique and coursing to match the removed wall, and the window opening shall be returned to its former position and un-mullioned form. The replacement window shall be either: a. a two-light, painted timber frame with a central vertical painted timber mullion with rectangular quarrels (glass panes) held in lead cames, and a flat-iron casement hung on pintels; b. a two-light, painted timber frame, with a central painted timber mullion and two symmetrical, flush painted timber casements, one opening (side-hung) and one fixed. The casements should each either be divided into two panes by a single, horizontal glazing bar with an internal lamb's tongue moulding; or six panes divided by one vertical and two horizontal glazing bars with an internal ovolo moulding.
 - (ii) The double-door opening between the kitchen/ breakfast room and entrance lobby, as shown on drawing 100.111 Rev A, shall be returned to a single door width, matching and aligned to the single door opening on the opposite side of the lobby;
 - (iii) The single-door opening between the dining room and entrance lobby shall be relocated to its original position as shown on drawing 100.011 Rev A;
 - (iv) The stair removed from within the rear wing shall be reinstated. If damaged beyond repair, the stair and its enclosure shall be replicated on a like-for-like basis;
 - (v) The fireplace installed in bedroom 1, as identified on drawing 100.111 Rev A, shall be removed;

- (vi) The expanding foam used around the first-floor sash windows on the west elevation and around the front door and its canopy supports shall be removed and replaced with lime mortar;
 - (vii) The missing stone wall attached to the south-east of the house shall be rebuilt with the materials, construction technique and coursing to match the removed wall;
 - (viii) The partition wall within the 17th-century part of the building shall be removed and the floor where the wall's supports are shall be repaired; and
 - (ix) The breezeblock wall within the courtyard shall be removed.
 - The period for compliance with the requirements is 6 months
 - The appeal is made on the grounds set out in section 39(1)(e), (h), (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Appeal B Ref: APP/F1610/W/22/3298307

Middle Hill Farm, Saintbury, Broadway, Gloucestershire, WR12 7PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr John Evetts against Cotswold District Council.
 - The application Ref 20/02798/FUL, is dated 13 August 2020.
 - The development proposed is demolition of single storey lean to, fenestration alterations and landscaping (part retrospective).
-

Appeal C Ref: APP/F1610/Y/22/3298306

Middle Hill Farm, Saintbury, Broadway, Gloucestershire, WR12 7PX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr John Evetts against Cotswold District Council.
 - The application Ref 20/02799/LBC is dated 13 August 2020.
 - The works proposed are demolition of single storey lean to, fenestration alterations, internal alterations to include new mechanical and electrical works, and landscaping (part retrospective).
-

Decisions

Appeal A - Listed Building Enforcement Notice

1. It is directed that the listed building enforcement notice be varied by deleting "*6 months*" from the period for compliance and replacing it with "*6 months for requirements (ii) and (vii) and 12 months for requirement (viii)*". The appeal is allowed insofar as it relates to allegations (i), (iii), (iv), (v), (vi) and (ix) and listed building consent is granted for "*(i) the blocking of a window opening and the insertion of a new, three-light mullioned window at first floor, on the rear of the 18th-century part of the building*"; "*(iii) the relocation of the single-door opening between the entrance lobby and dining room*"; "*(iv) the removal of the stair in the 17th-century part of the building*"; "*(v) the replacement of the already missing fireplace in the panelled, first-floor room with an historically-inappropriate design*"; "*(vi) The use of expanding foam on at least three windows and around the front door and its canopy supports*"; "*(ix) the construction of a breezeblock wall faced with stone within the courtyard*" at Middle Hill Farm, Saintbury, Broadway, Gloucestershire, WR12 7PX subject to the following condition:
 - 1) Within 6 months of the date of this decision the wooden fireplace surround granted consent as part of allegation (v) shall be removed and

a new surround whose design has first been agreed in writing by the local planning authority shall be installed.

2. The appeal is dismissed and the listed building enforcement notice is upheld as varied, insofar as it relates to allegations "*(ii) the creation of a double-door width opening between the proposed entrance lobby & kitchen/breakfast room in the 18th-century part of the house*"; "*(vii) the removal of an historic stone boundary wall attached to the south-east corner of the house, enclosing the south side of the front garden*"; and "*(viii) the implementation of a partition wall within the 17th-century part of the building*", and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Appeal B – S78 Planning Permission

3. The appeal is allowed and planning permission is granted for demolition of single storey lean to, fenestration alterations and landscaping (part retrospective) at Middle Hill Farm, Broadway, WR12 7PX in accordance with the terms of the application, Ref 20/02798/FUL, dated 13 August 2020, and the plans submitted with it.

Appeal C – Listed Building Consent

4. The appeal is allowed and listed building consent is granted for the application, namely the demolition of single storey lean to, fenestration alterations, internal alterations to include new mechanical and electrical works, and landscaping (part retrospective) except for those matters specifically refused below. The site is at Middle Hill Farm, Broadway, WR12 7PX the appeal is allowed in accordance with the terms of the application Ref 20/02799/LBC dated 20/02799/LBC and the plans submitted with it.
5. The appeal is dismissed and listed building consent refused for the following items - the creation of a double-door width opening between the proposed entrance lobby & kitchen/breakfast room in the 18th-century part of the house; the replacement of the missing fireplace in the panelled first floor room; the removal of an historic stone boundary wall attached to the south-east corner of the house, enclosing the south side of the front garden; the introduction of a partition wall within the 17th-century part of the building; and any changes to the ceiling in this part of the building to open it up to a full height.

Preliminary Matters

6. Appeals B and C are for planning permission and listed building consent for various works to Middle Hill Farm that amount to a complete restoration of the building. Some of these works have already been carried out and many are acceptable to the Council. Those that are not form the content of listed building enforcement notice and it is on that I shall concentrate first before considering the outstanding elements of the listed building consent application.
7. Middle Hill Farm is listed Grade II, and comprises two main parts, an 18th Century farmhouse attached to a 17th Century (or older) cross wing, known as the great hall. The owner and appellant is a historic advisor to the Landmark Trust and has been involved in numerous restoration projects over the years.

Reasons

(i) blocking of one window and insertion of new

8. The first allegation concerns the removal of one window and insertion of another on the first floor of the rear wall of the 18th century house. The Council were concerned that the removed window, while clearly modern was located within an historic opening, whereas the new window was cut into undisturbed stonework. The new window matches the ground floor 3 light stone mullioned window now directly beneath it and such symmetry is unusual on the rear elevation of a building, which is more likely to have been altered over time to suit the needs of the occupiers. Thus the unsymmetric and offset windows are more likely to have been historic.
9. However, the appellant has produced evidence that convinces me the removed window was actually made up from stonework salvaged from another window, the cill was made of joined together mullions for example, and so it was likely to have been a fairly recent introduction. There was also evidence of a window opening where the new window is situated, so the stonework, which showed evidence of modern cement render, was not undisturbed at all.
10. I'm not convinced the symmetry of the rear elevation is a particularly convincing argument and given there was an opening above the ground floor window it could have been similar to the new version. Similarly the removed window could have been a 20th Century introduction, or it could have been just a 20th Century bodge-up using an older opening, the evidence is inconclusive. However good the intentions of the owner, a listed house cannot be re-fashioned just to suit their whims, and yet all listed buildings are subject to a constant evolution, it is a question of maintaining a balance. The key test of course is whether the works of alteration affect the character of the farmhouse as a building of special architectural or historic interest. The evidence suggests to me this is a reshuffling of windows in an area that has already been subject to change. The result is high quality work, which to the untrained eye, looks as if nothing has changed. I do not think it stands out as unusual that two similar windows are above each other on the rear façade and it is possible this is how it looked originally. Consequently I do not think there has been any harm.

(ii) & (iii) the doors from the entrance lobby

11. The second and third allegations concerns the entrance lobby. One enters the lobby from the main front door, with openings to left and right leading to the dining room and kitchen respectively. When work commenced there were single doors on these openings, which were hinged close to the outside wall. The door openings have been moved 15cm away from the outside wall, to provide a deeper return and the opening to the kitchen widened to accommodate glazed double doors.
12. The Council argue this arrangement is untypical of a such a house, the doors would have been hinged close to the external wall (as they originally were) and single doors would have been the norm, glazed double doors are unheard of.
13. In this case I have no argument with the Council's analysis, except that the internal partitions were all modern and the doors in use were cut down historic ones. The appellant points out that only one door could be salvaged and has been re-used in the dining room entrance. The Council argue, and I agree,

that restoring the historic cellular form is the highest priority and the key element of that is matching doors either side of the entrance. I accept the new partitions have recreated the look and feel of a typical 18th century interior but the double-glazed doors are jarring and unhistorical. They also are within an opening larger than the one opposite which makes them stand out further. They do affect the character of the farmhouse in a negative way. I do not agree that the exact location of the doors, close to or further away from the external wall, is significant but the lack of symmetry is important and I shall uphold that part of the notice that refers to replacing the double doors.

(iv) removal of staircase from the great hall

14. The restoration of this part of the house is unfinished, but the existing staircase has been removed and it is proposed to install a new one on the opposite wall. The Council are concerned about the lack of any historic analysis of this, older, part of the house and that removing what was an historic staircase is unacceptable. The appellant argues the staircase was actually a later insertion that sat on top of the flagstones and did not align with any features on the upper floor.
15. The old staircase did seem to have been unremarkable. The Council may well have been misled by the older materials they saw that were nothing to do with this building but were salvaged from previous historic renovation works by the appellant. I also note the evidence that there had been stairs in different locations in the past and the appellant's view that the removed staircase was an unoriginal stair in an unoriginal position. Rather like the external window in (i) this seems to me more to be part of the ongoing evolution of the building rather than a loss of historic fabric that is harmful.

(v) replacement fireplace

16. There is no dispute about the fireplace, the issue is the surrounding stone slips and the moulding used. The fireplace is located in a panelled wall, in what is clearly a high-status room. The appellant accepts the only parts of the fireplace restoration they did not have evidence for were the stone slips and the moulding. These were copied from examples in other buildings of this type. I have no objection to the stone slips but I agree with the Council that the moulding, which copies that of the dado rail, is weak and insubstantial. Given the lack of evidence as to what it actually looked like we need to rely on what is most likely and one would expect such a fireplace to have had more of a statement impact, and this could be achieved by more pronounced moulding. Whether the bolection moulding I was shown is the only option I do not know, but this could be left to a condition to sort out. I shall grant consent for the works subject to a condition as discussed.

(vi) use of expanding foam

17. I agree that ordinarily, the use of expanding foam could lead to issues of breathability and impermeability, and generally should be avoided in favour of traditional materials. But in this case I understand it is only in small quantities beneath a few windows and has no effect on the historic quality of the building at all.

(vii) removal of stone boundary wall

18. I accept that the wall may have been in different positions over time but the house is clearly anchored into the landscape by walls on its other three corners. The regrading of the front lawn was clearly necessary to overcome the damp problem but that did not mean the wall should be removed permanently, it could easily be reinstated to close off the southern end of the front lawn. Currently the front garden meanders off into an area of trees which creates an unsatisfactory sense of incompleteness to the front of the site and in my view the requirement for the replacement of the wall is reasonable.

(viii) great hall partition

19. See below for the discussion of the great hall under Appeal C.

(ix) breezeblock wall

20. Walls to the rear of the farmhouse link it to the barn building to the west. The northern boundary wall has been rebuilt partly using breezeblocks. The appellant points out the wall had fallen down twice in the last 20 years, and it seems there was not much left when works began. From the outside the whole wall and gates appear to be of a high quality and entirely authentic. From the rear it is clear the section of wall next to the barn is made with a breezeblock backing. However, this is where planning permission has been granted for a greenhouse and so the breezeblocks will be incorporated within that structure.
21. Ordinarily the whole wall should be constructed out of stone, but in this case the outside of the wall appears uniform, the only issue is the inside breezeblocks. As they are to be contained within another structure it does not seem to me they cause any harm to the historic character of the farmhouse or its surrounds.

Appeal B

22. The rebuilding of the southern wall of the house has been omitted from the application so the only matters between the parties that require planning permission are the rebuild of the northern rear boundary wall in breezeblock. I have dealt with that above and find it acceptable so planning permission can be granted for the works proposed.

Appeal C

23. I have dealt with all the issues raised by the application for listed building consent above apart from the partitioning of the ground floor and opening up of the first floor of part of the great hall. The Council argue that there has not been a proper survey of this part of the building and so any such changes should be delayed until there has. The appellant counters that it has been fully researched, the ceiling to be removed is modern so there can be no objection to this opening up.
24. If there has been a full analysis of this part of the building than I have not seen it. If it is a great hall from the sixteenth century as the DAS suggests then it may well have been one large room, open to the roof. Again this is suggested by the idea that opening up part of the modern ceiling would 'restore' it to its full height. If that is the case then it is likely it would also have been one large room horizontally without any partitions.

25. The appellant has installed a partition midway across the ground floor and I accept this follows a channel in the floor so there has been no loss of historic flooring and it also follows the ceiling support beam which had notches cut for a partition. It seems that prior to the appellant purchasing the building, at some point a partition in this room was removed and the floor made good.
26. I noted that floor on both sides of the partition was different. On one side it was regular rectangular slabs laid in straight lines, on the other it was much more random, with some huge triangular shaped slabs slotted next to each other. This would have suggested to me the partition was of some antiquity as when it was introduced the floor on one side at least was re-flagged. However, the DAS states there is evidence of a fire in this part of the building and that the flagstones on the floor are modern, as are the wooden ceiling beams. That suggests the ceiling and partition were also modern so that the removal of the partition was made even more recently.
27. Consequently, I find there is no real evidence for how the hall would have looked at any point in its history. While I think the removal of the stair is inconsequential, I am reluctant to support the portioning of part of the hall and opening up of another part, particularly as the arguments for these appear to be contradictory. Either the hall was once one large space that should be reopened, or it was split into rooms spread over 2 floors that should be reinstated. A third option is that it had long been divided into two with a ceiling but that the partitions came much later. I am not in a position to reach a view on which is most likely and so which combination of suggestions would cause least damage to the historic fabric and authenticity of the building. As the Council argue more research needs to be done and a coherent plan of restoration for the great hall should be drawn up.
28. To allow these changes to be made to the great hall without a coherent plan of restoration backed up by research could well lead to harm to the significance of the building and could affect its character as a building of special architectural or historic interest.

Conclusions

29. The appellant maintains the Council have failed to look at the overall balance of the proposals. I agree the restoration of the building and its return to a productive use is the main priority and this is a definite public benefit. However, this can be secured in any number of ways, and would appear to have already been achieved. That does not mean the various issues I have identified, and which fall in the lower end of the less than substantial harm scale can be ignored. If they were essential to secure the future of the building then they could be balanced against the overall benefit but they are not. Consequently there are no public benefits to weigh against the less than substantial harm.
30. How to co-ordinate the 3 appeal decisions is somewhat complicated. There is an appeal on ground (h) against the listed building enforcement notice that 6 months is too short a time. I have agreed that the double doors into the kitchen need removing and replacing by a single door to match that into the dining room, the wooden surround of the fireplace in the main bedroom needs replacing and the southern stone boundary wall should be rebuilt. I shall issue a split decision to grant consent for some elements and refuse it for others. 6 months is plenty of time for the relatively minor works that remain to be

carried out. It should not take very long to remove the partition in the great hall either, but as I argue above this needs to be properly considered as part of an overall scheme for this part of the building. It may be this ends up being retained in which case requiring its removal would be unnecessary. I shall therefore extend the compliance period for this part of the allegation to 12 months to enable such a scheme to be agreed.

31. I shall grant planning permission on appeal B as the works covered by that appeal are all acceptable, and as they have already been carried out no conditions are necessary.
32. I shall grant listed building consent for the works already carried out, except for those that remain in the listed building enforcement notice and for the works to the great hall. I shall also exclude the fireplace surround as this granted consent subject to a condition by Appeal A.

Simon Hand MA

INSPECTOR