



Appeal Decision

Site visit made on 10 October 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Appeal Ref: APP/R2520/C/22/3305625

Land known as 'Partnership House', East Road, Sleaford, Lincolnshire, NG34 8FP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Robert Daniels against an enforcement notice issued by North Kesteven District Council.
- The enforcement notice was issued on 20 July 2022.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 19/1006/FUL, granted on 23 September 2019.
- The development to which the permission relates is: The erection of log cabin classroom (part retrospective).
- The condition in question is no.1 which states that: 'The development hereby permitted shall be constructed entirely of the materials details which are shown on drawing 19-0703-01 or in accordance with such alternatives as may be agreed in writing with the district planning authority'.
- The notice alleges that the condition has not been complied with in that: The approved drawing 19-0703-01 specifies that the windows, doors and external walls of the classroom must be timber and clear stained. The classroom as-built does not comply with this approved plan for the following reasons:
 - (a) The external walls of the classroom have been finished in off-white plastic composite cladding; and
 - (b) The external windows and doors installed in the classroom are white UPVC.
- The requirements of the notice are to:
 - (a) Remove the UPVC windows and doors from the building and replace with timber windows in accordance with approved plan '19-0703-01'; and,
 - (b) Remove the plastic composite cladding from the building and replace with timber cladding in accordance with the approved plan '19-0703-01'.
- The period for compliance with the requirements is: 20 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under s177(5) of the 1990 Act as amended for the development already carried out in breach of Condition 1 of planning permission 19/1006/FUL on the land known as 'Partnership House', East Road, Sleaford, Lincolnshire, NG34 8FP, subject to the following conditions:
 - 1) The building to which this permission relates shall be used as a classroom in association with the existing Little Gems Day Nursery and for no other purpose (including any other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

- 2) The building to which this permission relates shall be removed from site if the use of the main building by Little Gems Day Nursery ceases.

Background and Preliminary Matters

2. In September 2019 planning permission was granted for a detached classroom building set to the rear of Partnership House, a Grade II Listed Building (the LB). The application was subject of a number of conditions including a condition requiring clear stained timber materials to be used in the external construction of the classroom, as specified on approved plan 19-0703-01.
3. The classroom was subsequently finished in alternative composite and uPVC materials in lieu of the approved timber counterparts. An application (22/0549/VARCON) to vary Condition 1 of planning permission 19/1006/FUL, which sought to retain existing window and door materials and timber effect cladding, was refused by the Council on 7 July 2022.
4. The reason for refusal related to the effect of the classroom as built on the setting of the LB. Similar reasoning forms the basis of the Council's reason for serving the enforcement notice (the Notice).
5. Since the time the Notice was issued, the Council has adopted the Central Lincolnshire Local Plan [April 2023] (the CLLP). Accordingly, the policies referenced in the Notice are now superseded. The Council have subsequently directed me to Policy S53: Design and Amenity and Policy S57: The Historic Environment of the CLLP as the relevant replacement policies and I have had regard to them in coming to my decision.

Ground (a) and the deemed application for planning permission

Main issue

6. Whether the condition is reasonable or necessary in the interests of the visual amenity of the locality and preserving or enhancing the setting of the adjacent LB.

Reasons

7. The site lies within a predominantly mixed commercial area. It is located between a builders' merchant and a car sales site. The surrounding area substantially consists of workshops, offices, retail and storage buildings of various scales, age and construction.
8. The appeal relates to one of two detached classrooms located to the rear of the LB. Listed as 'Entrance to Gas Works, Eastgate', Partnership House consists of two 2-storey gabled pavilions linked to an impressive central arched gateway. The frontage is constructed in coursed stone, with stone mullioned windows and arched doorways. It features stone banding, bays and carved heraldic scrolling and shield over the gated opening with a stepped pediment above. The slated roofs feature large ornate chimney stacks.
9. To the rear, the building incorporates brickwork and rendered panels. Some later alterations and additions, including a 2-storey brick extension, canopies and a modern open-sided shelter have been added. The courtyard area beyond

the gateway has been surfaced to provide parking areas around the detached classrooms behind either pavilion. To the rear is an outdoor play space and a screened palisade-fenced compound.

10. A condition requiring the construction of a building in accordance with materials specified on approved plans will generally meet the legal requirements and tests in Para. 56 of the National Planning Policy Framework (the Framework) in relation to the use of planning conditions. This is not contested by the appellant. The stated reason for imposing Condition 1 was to ensure a satisfactory external appearance of the building in the interests of visual amenity and to accord with Policy LP26 of the Central Lincolnshire Local Plan [2017] relating to design and amenity.
11. Since the refusal of the application to vary Condition 1, the Council's concerns in relation to visual amenity primarily concern the use of modern artificial materials within the curtilage of the LB and the subsequent effect on its setting.
12. There is no dispute between the main parties that the building is well screened from outside the site. The classroom can only be glimpsed from beyond its boundaries due to the extent of enclosure by the frontage building, the side boundary wall and a single storey building in the adjacent car sales yard. Its visual impact from the surrounding areas is therefore significantly limited. In the context of the mixed character of nearby development, the effect of the alternative cladding materials is negligible. The windows and doors, which are only inward looking, are not easily visible from outside of the site.
13. The duty under Section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
14. As a detached single-storey building with simple subordinate form, the classroom contrasts with the scale, architectural style and detailing of the LB. Given their close proximity, that contrast with the LB is reinforced. Although clear finished timber equivalents might be of a more traditional and softer appearance, they would not directly relate to, nor better reveal the significance of the designated heritage asset identified for its architectural interest.
15. Whilst I recognise that the requirements of Condition 1 would now provide some consolidation with a timber store and the later partly-clad classroom within the courtyard, I find the effect of the modern external materials only assists in defining the building as a distinct entity and later installation. This is consistent with other later additions which can be visually interpreted as such by way of contrasting design and/or materials.
16. Furthermore, the LB's setting is defined by what exists about it. Although much of the integrity of the building's design and architectural quality has been preserved over time, the same cannot be said in relation to its setting. The classroom sits on a modern tarmac surface accommodating parked vehicles. The contemporary play area and fenced compound sit between the adjacent open display areas, modern structures and outside storage that are part and parcel of the framing of the LB.

17. In that context, I find the effect of the alternative materials on the heritage asset's setting to be neutral. There would be no discernible difference to the LB's setting compared to a condition compliant scheme. The building would appear as a later phase of development regardless, and with no direct reference to the asset's architectural merit.
18. For the above reasons, I find the building as constructed does not result in harm to the character and appearance of the locality and preserves the setting of the LB. It thereby meets the requirements in Policies S53 and S57 of the CLLP as they require development to respond to its surroundings and context and conserve the historic environment. Amongst other things, this includes protecting the significance and setting of heritage assets having regard to consideration of the external materials of development.
19. Consequential to my findings above, I find the requirement in relation to materials specified in Condition 1 is unnecessary. The condition can thereby be discharged as no longer meeting the relevant tests in the Framework.

The appeal on ground (f)

20. Pursuant to my finding on the ground (a) appeal, there is no necessity for me to consider the matters raised in conjunction with the ground (f) appeal further.

Conditions

21. In allowing this appeal a new planning permission results for the development as built. In addition to discharging original Condition 1, Condition 4 of the original permission, which also refers to plan 19-0703-01, is no longer necessary. I have re-stated the other original conditions which remain valid and are not contested by the appellant.

Conclusion

22. For the reasons given above, I conclude that the appeal should succeed on ground (a) and the enforcement notice should be quashed.
23. I shall discharge the condition that is subject to the notice, and grant planning permission on the application deemed to have been made for the operations previously permitted without complying with the condition enforced against.
24. The appeal on ground (f) does not fall to be considered.

R Hitchcock

INSPECTOR