



Appeal Decision

Site visit made on 11 December 2023

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/P4415/F/23/3318723

Pear Tree Farm, Main Street, Brookhouse, Sheffield, S25 1YA

- 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 Act").
 - The appeal is made by Dr Muzahim Bader against a listed building enforcement notice issued by the Rotherham Metropolitan Borough Council.
 - The listed building enforcement notice was issued on 23 February 2023.
 - The contravention of listed building control alleged in the notice is the installation of an external steel flue pipe to the rear (northern) elevation of the property without the benefit of listed building consent as shown in yellow on the attached plan.
 - The requirements of the notice are:
 - 5.1 Remove the steel flue pipe internally and externally.
 - 5.2 Make good the stonework of the property internally and externally, using like for like repairs to the existing masonry, namely matching natural stone with similar coursing and using a lime based mortar.
 - 5.3 Remove any waste from the site and dispose of it at an appropriate facility.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on grounds (d), (e), (h) and (j) within section 39(1) of the Act.
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Decision

1. The appeal is allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the installation of an external steel flue pipe to the rear (northern) elevation of the building subject to the following condition:
 1. Within 2 months of the date of this Decision full details of the external colour treatment of the external part of the flue shall be submitted to the local planning authority for their approval. Within 6 months of the date of this Decision the flue shall be painted in accordance with the approved details and shall be retained in that form thereafter.

Appeal on ground (d)

2. This ground of appeal relates to circumstances where essential and urgent works were needed to preserve the listed building. The critical emphasis here is upon the words 'essential', 'urgent' and the 'need to preserve'. Three tests need to be satisfied. The first is whether the works were urgently necessary in the interests of safety or health or for preservation of the building; the second test is that it was not practicable to achieve the aims of safety, health or preservation of the building by works of repair or works for affording temporary support or shelter, and the third test is that the works carried out were limited to the minimum measures immediately necessary. For an appeal to succeed on

ground (d) all three tests must be met and the onus is on an appellant to demonstrate that this is the case.

3. The appellant's case is that the flue was installed 14 years ago, installed as a replacement for an older one and that it was required for health and safety reasons to properly ventilate a log burner stove at the rear of the building. Clearly this is a relevant health and safety matter.
4. However, there is no evidence before me to indicate that the works were so urgently necessary as to be carried out in this form for the purposes of preservation of the building, or that alternative forms of heating were not possible at least for a temporary period of time to achieve the aims of health and safety for human habitation. Consequently, the installation as carried out fails all of the three tests.
5. The appeal on ground (d) fails.

Appeal on ground (e)

6. An appeal on this ground is that listed building consent ought to be granted for the works carried out.

Main Issue

7. The main issue is the effect of the flue on the special architectural and historic interest of the listed building, referred to in the Framework¹ as its 'significance'.

Reasons

8. Section 16(2) of the Act requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses. Additionally, I have taken into account Policy CS23 of the Rotherham Local Plan Core Strategy (2014) and Policies SP40 and SP43 of the Rotherham Local Plan Sites and Policies Document (2018) insofar as they require development to sustain the historic environment and preserve or enhance the special architectural or historic interest of listed buildings. I have also taken into account the provisions of the Framework that relate to designated heritage assets.
9. As described in the official listing Pear Tree Farmhouse is a late C18 building constructed in coursed squared limestone with ashlar plinth, chamfered quoins and a pantile roof. It comprises 3 storeys with the main front part of the building having a wide frontage of 3 bays, and with a centrally positioned 2 storey rear wing. The frontage at ground floor has a central 6-panel timber door in architrave flanked either side by 16 timber pane sashes in architraves with projecting sills. Similar timber framed sash windows are at first and second floor and are aligned horizontally at each level, and vertically with the ground floor openings. The gable ends have timber casements. Red brick chimney stacks are located above the roof at each gable end. The rear wing has stone slate eaves courses and shaped kneelers, gable copings and an end chimney stack to the rear gable.
10. Following on from the above Pear Tree Farm is a substantial imposing building in the context of its surroundings and which, along with others nearby, provides evidence of the early economic and social history of Brookhouse as a

¹ National Planning Policy Framework (December 2023)

rural farming hamlet. All of these factors, taken together, contribute greatly to the listed building's character and its significance as a designated heritage asset.

11. The flue emerges from the rear gable wall of the rear 2 storey wing at ground floor level to the side of a window. Incorporating a 45° turn towards the centre of the gable it then continues vertically, such that only the uppermost part is projects above ridge level to the side and rear of the chimney stack.
12. It is clear from the internal layout of the rear room and rear window position that the lower part of the flue could not be positioned any differently. As such, if the flue simply continued vertically from that position it's required height for fume dispersal would result in it projecting higher and prominently above the eastern side pitched roof slope. The 45° turn towards the centre of the gable end avoids this so that almost the whole of the flue is fixed against the rear gable wall. Consequently, other than from views from the rear, it is as concealed from all other views behind the gable wall as far as possible.
13. During my visit to the property I saw that there is no internal chimney stack as an alternative route for the flue. The appellant states that the internal stack must have been removed by previous occupiers (hence before 2009). I do not know if the removal was authorised or if it took place before the building was listed, but in any event its removal does not form part of the Council's case. I also saw that the oil-fired heating in the main part of the house does not extend to this rear wing. As such the log burner is currently the only form of heating for this room which is of substantial floor area and ceiling height.
14. Overall, I find that the shiny metal flue cannot be said to preserve or enhance the special interest of the building. However, in my view the level of harm is quite minimal, and in the language of the Framework the harm is 'less than substantial'. I acknowledge that the harm could be reduced further if the flue were painted black to coordinate with the colour of existing rainwater goods on the building. On that basis the remaining harm should be weighed against any public benefits.
15. In this regard, I saw from the limited number of existing sockets in the room that plug-in electric heaters would likely require additional cabling and sockets. Alternatively, extending the oil-fired heating by fitting additional radiators into the room would also require additional works. Both of these alternatives would require invasive works to the internal fabric of the building and potentially require facilitating works elsewhere in the house. Given that being able to heat the room is in the best interest of the listed building, so as to maintain its long term optimum viable use as a dwellinghouse, I consider on balance that retaining the flue is now preferable to the further works to the fabric of the building inevitably required to facilitate any reasonable alternative form of heating. As such, this is a public benefit that outweighs the limited harm I have previously identified.

Conditions

16. The Council have suggested 2 conditions. The first proposes a time period for commencement of the works. This is irrelevant given that the works have already been carried out.

17. The second proposed condition requires prior approval of a paint colour treatment for the flue. I agree this is a necessary condition in the interest of preserving the building's character as a building of special architectural and historic interest. However, it does not specify a period of time within which the treatment must be applied. I will therefore amend the wording of the condition appropriately.

Conclusion

18. For the reasons given above I conclude that the appeal should succeed.

Thomas Shields

INSPECTOR