



Appeal Decision

Site visit made on 22 January 2025

by **Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2025

Appeal Ref: APP/Z2260/F/22/3298125

Land or premises at 140 Grange Road, RAMSGATE, Kent, CT11 9PR

- 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 Philip Kaye against a listed building enforcement notice issued by Thanet District Council
 - The enforcement notice was issued on 24 March 2022
 - The contravention of listed building control alleged in the notice is: without Listed Building consent, the installation of insulation and changes to the internal layout. The installation of the ensuite, or open bathroom, to the second floor of the property. The unauthorised use of celotex foil lined board throughout the property.
 - The requirements of the notice are: 1. Remove the internal wall insulation to external walls at the front and sides of the first floor and second floor and internal wall installation to the ground floor rear projection. 2. Remove the unauthorised ensuite on the second floor of the property and return to the previous layout prior to the unauthorised work. 3. Repair and make good where necessary.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the grounds set out in section 39(1) (e) and (j) 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 and varied by: the deletion of the words from the allegation: "*...and changes to the internal layout. The installation of the ensuite, or open bathroom, to the second floor of the property*"; the deletion of the second requirement "*remove the unauthorised ensuite on the second floor of the property and return to the previous layout prior to the unauthorised work*"; and the deletion of 6 months and its substitution with 12 months as the period for compliance. Subject to these corrections and variations, the appeal is dismissed and the listed building enforcement notice is upheld. 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).

Preliminary Matters

2. I have amended the alleged contravention as written in the notice to remove the reasons the Council consider the contravention to be harmful as these are not part of the allegation. I have numbered the requirements to make them more readily understandable.

Reasons

3. No 140 is part of a terrace of modest sized, listed, late-Georgian town houses with three stories and a basement. The rear wall of No140 has collapsed and is currently being supported with scaffolding. The appellant is renovating the house and despite the lack of a rear wall has begun work inside. The two controversial elements are the ensuite bathroom to the front bedroom on the second floor and the use of modern insulation materials.
4. The first and second floors have almost identical layouts with a larger room to the front and the staircase and smaller room behind. Currently the front bedroom on the second floor has a shower cubicle in one corner and a toilet and sink in another. The latter are partly separated off from the main area by a short partition wall. This is described as a 'privacy screen'. It does not enclose the toilet/sink area but would provide some privacy as long as the bed was not placed directly in front of it.
5. An application to regularise the situation was made and refused and the plans submitted with that showed the layout of the bedroom as I saw it on the site visit. I agree with the appellant the changes to the layout of the room are minor and do not impinge on the historical understanding of the building. It is still clearly one large room but has short a internal partition to differentiate the new ensuite. In my view this constitutes success on a hidden ground (c) that there has not been a contravention of s9 of the Act as the works do not affect the character of the building as one of special architectural or historic interest. I shall correct the notice to remove reference to the ensuite.
6. The use of modern insulation materials is a different matter. I accept that the collapse of the rear wall was not due to damp, in the sense that the building did not have specific issue with damp before the wall collapsed. Nevertheless, the use of impermeable insulation materials is highly unusual.
7. The appellant has provided a 'Moisture Risk Analysis and Damp Report'. The Council, fairly, summarise that report as saying normally vapour impermeable materials should not be used on breathable walls, such as in the appeal building. However, they should be allowed to stay in this case due to the cost of removing them which might compromise the appellant's ability to address the more fundamental issues facing the building. I accept that a vapour barrier can be made to work as long as internal moisture is strictly controlled by ventilation but the Historic England advice on insulating solid walls is clear that the use of impermeable materials is fraught with problems and, as it says when using impermeable materials, "*effective vapour control is very difficult to achieve in practical terms*".
8. In my view there are many reasons not to allow the use of vapour impermeable materials when insulating a solid wall building and, in this case, only one good reason to allow it which is the impact on the overall works to protect the building. I agree with the Council that usually affordability is not a reason to allow harmful works to remain. But in this case I need to consider the wider picture, and it is obvious that considerable work needs to be done to provide a future for the building and this should not be compromised if possible. However, that does not mean granting consent for harmful works subject to an on-going monitoring system that could end up being more expensive than simply doing the job right in the first

place. However, bearing in mind the urgent need to deal with the rear wall I shall extend the period for compliance with the requirement to remove the insulation from 6 months to 1 year. This should give the appellant sufficient time to concentrate on the more urgent aspects of the work needed to make the building habitable.

Other Matters

9. Neither ground (c) nor (h) were made by the appellant, but the issues that I consider made success on these grounds relevant, arose from the representations made by both parties. It is not unusual in listed building enforcement notice cases for hidden grounds to emerge and I do not think either party has been prejudiced by my consideration of the appeal in this manner.

Conclusion

10. I shall allow the appeal in order to correct the notice to remove references to the ensuite. I shall also extend the compliance period but otherwise uphold the notice as corrected.

Simon Hand

INSPECTOR