



Appeal Decision

Site visit made on 3 February 2025

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 6 March 2025

Appeal Ref: APP/Y9507/F/22/3303608

Tithe Barn, Falmer Court Farm, East Street, Falmer, Brighton, East Sussex, BN1 9PB

- 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 appeal is made by Mr Mark Woolley against a listed building enforcement notice issued by South Downs National Park Authority.
- The enforcement notice was issued on 27 June 2022.
- The contraventions of listed building control alleged in the notice are:
 1. Installation of a breather membrane under the roof thatch with additional battens (as indicated as C1 on the plan in Appendix B and on photographs C.1.1 and C.1.2 in Appendix C.1).
 2. The demolition of the brick and flint wall in bay 2 in the south western part of the building and alterations to the compartment roof structure (as indicated as C2 on the plan in Appendix B and photographs C.2.1 and C.2.2 in Appendix C.2).
 3. Formation of a bar within bay 4 on the northern side comprising the construction and subsequent alteration of a flint and brick wall with timber detailing and timber bar top, concrete floor, sink, water, electricity and plumbing, hanging lighting, timber partitioning both sides with door in western end, cross beam, counter, and frame with glass shelves (as indicated as C3 on the plan in Appendix B and on photographs C.3.1, C.3.2 and C.3.3 in Appendix C.3).
 4. Removal of a two leaf external timber door and installation of single leaf boarded external door in bay 1 on the northern side (as indicated as C4 on the plan in Appendix B and on photographs C.4.1 and C.4.2 in Appendix C.4).
 5. Removing and replacing the base structures beneath the arcade posts at south aisle C and north aisle G with concrete blocks (as indicated as C5 on the plan in Appendix B and in photographs C.5.1 and C.5.2 in Appendix C.5).
 6. Enclosing the rafter feet on the slate aisled section to the north elevation and eaves boards under the thatch on the northern and southern elevations (as indicated as C6 on the plan in Appendix B and photographs C.6.1 (slate) and C.6.3 and C.6.4 (thatch) in Appendix C.6).
 7. Removal of limewash within bay 1 (as indicated as C7 on the plan in Appendix B and in photograph C.7.1 and C.7.2 in Appendix C.7).
- The requirements of the notice are:
 1. Remove the breather membrane under the roof thatch to the extent that it is not visible with the human eye from the ground or mezzanine floor within the barn.

The membrane shall be cut away along the line of the rafters and battens. This shall be undertaken from the interior by hand by a suitably qualified and experienced professional, using an appropriate sharp craft blade. It will require close access (such as a cherry picker or platform lift) to ensure precision. The works must be undertaken very carefully to avoid any damage to the underside of the thatch or timbers. The resultant appearance shall be such that only the thatch and timber roof structure are apparent from within the building, as was the case prior to re-thatching works, as identified in photograph C.1.3 in Appendix C.1. Please see our covering letter explaining that the SDNPA Conservation Officer wishes to be present at the start of these works to ensure compliance, however, reasonable notice of this start date needs to be given to arrange this.

The roof works shall only be undertaken once confirmation is given in writing from a suitably qualified ecologist that no protected species are nesting within the roofspace, with the building to be checked no earlier than 48 hours prior to works commencing. It may be necessary to delay works until after the nesting season (nesting season being March to August).

2. Reconstruct the flint and brick wall in bay 2 in the south western part of the building with the full gable as identified in photographs C.2.3 and C.2.4 in Appendix C.2. It is not necessary to surface the lower part of the wall with render as shown in the images.
The wall shall be constructed with hand laid flints, lime mortar (no cement) and using reclaimed bricks to match those within the wall in size, colour and texture. The reconstructed wall shall match the form, composition and detailing in the photographs C.2.3 and C.2.4 in Appendix C.2 save for the formation of a pedestrian door the location and size of which would be in accordance with the plans approved under SDNP/21/01192/LIS, should the relevant part of the aforementioned permission commence during the period identified for compliance with the terms of this notice. The density and coursing of the flint and brick shall match that in the photographs C.2.3 and C.2.4 in Appendix C.2, the mortar shall be flush and finished by tapping with a stiff bristled brush. The works shall be undertaken by a suitably qualified professional who has experience of working with flint using traditional methods.
 3. Remove the masonry wall beneath the bar top where the wall will extend above the height of the adjacent finished floor level approved under SDNP/21/01192/LIS. Remove timber partitioning above eaves height and the cross beam at eaves height.
No works shall be undertaken to the other timbers other than the careful removal of the masonry and associated mortar, unless such works are explicitly agreed in writing in advance by the South Downs National Park Authority. Partitioning above eaves height and the additional cross beam unnecessarily exacerbates the compartmentalisation.
 4. Adaptation of the existing single leaf door in the north west elevation to match the form and appearance of the previous two leaf door as identified in photograph C.4.3 in Appendix C.4.
 5. Remove the concrete blocks beneath arcade posts south aisle C and north aisle G (locations identified on plan in Appendix B) and replace with bricks to match those supporting the other arcade posts, with a lime-based mortar.
Suitably prop the building during these works, and undertake them under the guidance of a qualified engineer. Engineering bricks can be used internally to the base if required structurally, and this will need to be confirmed by a structural engineer in writing, but facing bricks must match existing historic bricks. Examples of the existing bricks are shown in photographs C.5.3 and C.5.4 in Appendix C.5.
 6. Remove the external timber fascia boards to reveal the timber rafter feet on the slate roofed northern aisle and around the eaves line of the thatch as identified in photographs C.6.2 (slate) and C.6.4 (thatch) in Appendix C.6. Fine wire mesh could be used discretely under the eaves if required to limit wildlife access, with advanced written confirmation from the South Downs National Park Authority.
 7. Reapply a natural and breathable limewash of white-natural pigment to the internal walls of the central western compartment, to match the technique and finish historically used, as illustrated by photographs C.7.1 and C.7.2 in Appendix C.7.
- The period for compliance with the requirements is four (4) months.
 - The appeal is made on the grounds set out in section 39(1) (e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Decision

1. 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).

The appeal on ground (e)

2. The ground of appeal is that listed building consent ought to be granted for the works and therefore the main issue is the effect of the works on the special architectural and historic interest of the listed building. In this case the appeal on ground (e) concerns only contraventions 1 and 7.
3. Section 16(2) of the Act requires the decision-maker, in considering whether to grant listed building consent for any works affecting 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 it possesses.

4. The Framework advises that when considering the effect of works on the significance of designated heritage assets great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration of those assets.
5. The development plan comprises the South Downs Local Plan: Adopted 2 July 2019 (2014-33) (the LP). Policy SD12 relates to the historic environment, stating among other issues that:
 1. Development proposals will only be permitted where they conserve and enhance the historic environment, including through the safeguarding of heritage assets and their setting.
 2. Applicants will be required to provide a Heritage Statement sufficient to allow an informed assessment of the impact of the proposed development on the significance of the heritage asset(s).
 3. Development proposals which affect heritage assets (whether designated or non-designated) or their setting will be determined with regard to the significance of the asset, including the long-term conservation and enhancement of that asset.
 4. Development proposals will be permitted where they enhance or better reveal the significance of heritage assets, particularly where they are considered to be at risk of irreversible harm or loss.
 5. Development proposals which appropriately re-use redundant or under-used heritage assets with the optimal viable use, which secures their long-term conservation and enhancement, including of their setting, will be supported.
 6. Development proposals for enabling development that would otherwise conflict with other planning policies but which would secure the future conservation of a heritage asset will be permitted provided:
 - a) The proposals will not materially harm the heritage values of the asset or its setting;
 - b) It can be demonstrated that alternative solutions have failed;
 - c) The proposed development is the minimum necessary to protect the significance of the heritage asset;
 - d) It meets the tests and criteria set out in Historic England guidance Enabling Development and the Conservation of Significant Places;
 - e) It is subject to a legal agreement to secure the restoration of the asset; and
 - f) It enables public appreciation of the saved heritage asset
6. Policy SD13 relates specifically to listed buildings and confirms that
 1. Development proposals which affect a listed building or its setting will only be permitted and listed building consent granted where:

a) They preserve and enhance the significance of the listed building and its setting by demonstrating that loss of historic fabric and detail of significance, including internal features, floor plans and the integrity of the rooms, is avoided; or

b) Harm to the significance of the listed building or its setting is considered to be outweighed by public benefits by the Authority, when appropriate mitigation measures will be expected, including archaeological investigation (including a written report) or recording.

2. Development proposals will be refused planning permission and/or listed building consent where they cause substantial harm to a listed building or its setting.

7. The Grade II* building was first listed in March 1952 and is described as a long barn, probably sixteenth century in date. Hipped thatched roof. Two waggon entrances and 2 lunette windows each side. Inside, the barn has tie-beams, crown posts with braces and some queen posts. The significance of the building lies in its overall quality as a large intact tithe barn with surviving features including its magnificent hipped thatched roof, impressive timber tie-beams and crown posts with braces. Other key features contributing to the building's significance include the external and internal historic materials used which show the methods used in construction as well as the historic development of the building over time.
8. The appellant contends that the membrane will help to protect the roof structure in the long term – particularly once the thatched roof begins to deteriorate. Additionally, at the time the appellant purchased the barn the previous thatched roof was in a poor condition and the deterioration may have resulted in damage to the roof beams through water ingress and the membranes give additional protection to these. Secondly, it is the appellant's case that the membrane helps to reduce dust in the barn which is important given the use of the building as an event space. I have noted that there is actually no evidence of damage to the roof beams through water ingress.
9. The appellant does not dispute that there is limited harm caused to the significance of the building, but there is no impact on historic fabric. The breather membrane under the thatched roof is made of an inappropriate modern material, incorporating modern construction methods and design which does not respect the integrity of the grade II* listed building. The membrane hides the historic and architecturally significant roof features from inside the building and fails to preserve or enhance the historic significance and appearance of the designated heritage asset. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
10. I conclude that the works have harmed the significance and special architectural and historic interest of the listed building by adding modern materials which hide the building's significant roof features. Such harm is less than substantial in terms of the Framework. I consider public benefits below.
11. The appellant argues that limewash was commonly used in buildings that were used to house animals and would be consistent with the late nineteenth century use of this part of the barn as a stable. As such the appellant dismisses it as not being historically significant. However, limewash was not used exclusively in buildings used for animals, but in a range of other settings, including agricultural

barns. Lime plaster walls are typical features in historic buildings and are important in the way they allow the structure to breathe and create a particularly soft visual finish. The works to remove the limewash have clearly destroyed an historic material from the building to the detriment of its historic significance as well as its visual appearance.

12. I conclude that the works have harmed the significance and special architectural and historic interest of the listed building by removing significant historic fabric. I give this harm considerable importance and weight. Such harm is 'less than substantial' in terms of the Framework. I consider public benefits below.
13. Under these circumstances, the Framework advises that this harm should be weighed against the public benefits of the works, which includes securing the optimal use of the building. The appellant contends that the membrane supports the use of the building as a modern event space which allows the building to be appreciated by far more people than would be possible with alternative uses. That may be the case, but the benefits of facilitating access to the building is, in part, compromised by the harmful membrane that has been added under the thatch which, in my judgement, is highly visually intrusive. In addition, the membrane is not an essential feature, even though it may be desirable in prolonging the life of the existing thatched roof and limiting dust levels. There are no particular public benefits arguments advanced with respect to the removal of the limewash within bay 1.
14. I have taken account of the fact that it would be very costly to remove the membrane and that in the future, when the thatched roof is replaced again, the membrane may be removed and not replaced, but that may be many years away. The works undertaken in relation to this appeal have caused harm to the significance and special architectural and historic interest of the listed building, each coming within the level of 'less than substantial' harm as categorised by the Framework. I do not consider that the benefits identified in the evidence submitted outweigh the harm of what has been done, either individually or cumulatively, such that listed building consent should be granted, either individually or cumulatively, for the works considered above.
15. Therefore, I conclude that the works fail to preserve a Grade II* listed building and features of special architectural or historic interest that it possesses. As such it conflicts with Policies SD12 and SD13 of the LP, the Framework and the 1990 Act.

The appeal on ground (h)

16. The ground of appeal is that the period specified falls short of what should reasonably be allowed. Specialist contractors would be required to carry out the sensitive works needed and it may take some time for arrangements to be made. It is also argued that particular materials that may be in short supply are required and that various method statements and careful planning will be required to carry out the works. That may be the case, but the appeal on ground (e) relates only to the roof membrane and removal of limewash so I see no reason why planning the remedial works have not started since the LBEN was issued in June 2022. In addition, the refurbishment of the barn carried out by the appellants does not seem to have delayed opening the building for events.
17. I have noted the Authority's apparent willingness to extend the time period for compliance with the requirements in the interests of working collaboratively to

benefit the future of this important listed building. However, given the range of requirements and the time lapse between the Notice being issued and this decision I see no reasonable justification for unduly delaying the remedial works required to restore the building.

18. Therefore, in these particular circumstances and having considered the requirements of the notice I consider that the four months given should remain the timescale for the works to be carried out.

A A Phillips

INSPECTOR