



Appeal Decision

Site visit made on 7 January 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 9th April 2025

Appeal Ref: APP/M3645/F/23/3324644

Curtilage listed building to the north west of the Greyhound Inn and fronting Plaistow Street, Lingfield RH7 6AU

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ian Eldred of Shire Barns Limited against a listed building enforcement notice (LBEN) issued by Tandridge District Council.
- The LBEN was issued on 23 May 2023.
- The contravention of listed building control alleged in the notice is:
 - i) Without listed building consent the formation of two window openings in the northern elevation of the building and insertion of uPVC window frames, insertion of hayloft window in eastern elevation and the painting of the exterior of the building.
- The requirements of the LBEN are:
Within 6 months from the date on which this Notice takes effect:-
Windows:
 - (i) Remove the two single light uPVC windows on the north elevation including frames and subframes;
 - (ii) Following removal of the windows under (i) above infill the two window openings with brickwork to match the existing in terms of size and colour;
 - (iii) The brickwork shall be pointed with 1 part NHL 3.5 to 2.5 parts well graded aggregate (1:2.5)
 - (iv) Remove the unauthorised hayloft window on the east elevation
 - (v) Infill the hayloft window with a recessed ledged and battened timber panelPaint Removal:
 - (vi) Remove the grey/ purple and cream coloured paint from the northern, eastern and southern elevations of the building via a gentle cleaning of the masonry using the DOFF steam cleaning system or similar carried out by a contractor with experience of working with historic buildings.Redecoration:
 - (vii) After removing the grey/ purple and cream coloured paint from the exterior of the building, in accordance with (vi) above, redecorate the exterior brick in white mineral based paint. The plinth shall be painted in a black mineral based paint at the base of the building extending no more than 300mm from ground level
 - (viii) Repaint exterior timber fascias, doors, panels and windows black in a linseed oil paint
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 39(1) (a), (b), (e) and (g) of the LBCA Act.

Summary Decision: The appeal succeeds in part and the listed building enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

The Notice

1. On an appeal any defect, error, or misdescription in a LBEN may be corrected using the powers available in section 41(1)(a) of the LBCA Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.

2. The description of the alleged breach includes *'the painting of the exterior of the building'*. Requirement (viii) states *'repaint exterior timber fascias, doors, panels and windows black in a linseed oil paint'*. However, the term 'fascia' in respect of architecture can refer to any band with a plain vertical face, such as a fascia-board at eaves-level or a board over a shop-front on which lettering is placed. It is not clear in this case whether the requirement to paint '*fascias*' relates to both of those or one or the other. As such, in my judgement that part of the requirement does not tell the recipient of the LBEN fairly what they must do to remedy the contravention, and I intend to delete the word '*fascias*' from that requirement in section 5 of the LBEN. The Council would be able to issue another LBEN in respect of that matter if it considers it expedient to do that. Therefore, I consider I can carry out the variation without injustice to either party.

Procedural Matters, Background and Policy

3. On the day of my site visit I noted that some of the requirements of the LBEN appear to have been complied with. Nevertheless, there is no dispute that not all the requirements had been complied with. The Council have cited that a hayloft window on the northern elevation is unauthorised, that signage has been erected and a door fronting Plaistow Street has been painted yellow. However, these works do not form part of the alleged contravention of listed building control. Moreover, the appellant's have stated that they are not in control of the small part of the building that links to the adjacent terrace. Therefore, the grounds of appeal only relate to the part of the building within the appellant's control (the appeal building). I have dealt with the appeal on this basis.
4. The appeal building is adjacent to The Greyhound Public House which is grade II listed. This public house was first listed in 1984 and the list description states, amongst other things, *'Public house. C17 with late C19 front. Timber framed, square panel pattern exposed to return fronts with colour washed brick infill; rendered cladding on ground floor front with diamond pattern tiling above.'* The appeal building, on the day of my site visit, was in use as a framing studio. It is located prominently on a main thoroughfare that traverses through the settlement of Lingfield. The evidence before me indicates that the public house and the appeal building are within Lingfield Conservation Area (the LCA).
5. Policy DP20 of Tandridge District Local Plan Part 2: Detailed Policies (LP) states, amongst other things, that *'there will be a presumption in favour of development proposals which seek to protect, preserve and wherever possible enhance the historic interest, cultural value, architectural character, visual appearance and setting of the District's heritage assets and historic environment.'* This policy is consistent with section 16 of the National Planning Policy Framework (the Framework). They are material considerations which I have taken into account in reaching my decision.
6. Section 16(2) of the LBCA Act requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of that Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

The ground (b) appeal

7. The appeal on ground (b) is that the matters alleged to constitute a contravention of Section 9(1) or 9(2) of the LBCA Act have not occurred. Part of the allegation concerns the 'insertion of hayloft window in eastern elevation'. The Council has stated that within the Heritage Statement, submitted with a planning application¹ in 2019, the hayloft window is described as a 'blocked opening'.
8. Nevertheless, a photograph² within that Heritage Statement shows a timber frame and mullion within the hayloft opening in the eastern elevation. The opening appears to be glazed rather than blocked up as the outline of items inside the building seems to be visible through the opening. Moreover, a further photograph³ in the Heritage Statement shows the hayloft opening from inside the appeal building and it is clearly apparent that light is being let in through that opening. Furthermore, a ladder and blue box seen in that photograph correlate with the outlines in the earlier photograph.
9. The appellant has also submitted several images from Google Streetview that also indicate that from 2008 the opening contained a window. The design of the frame and mullion of that window appears to be the same as that I saw on the date of my visit. It is not clear if the glazing has been altered and there is no dispute that the frame and mullion have been painted a different colour.
10. However, the evidence before me indicates that the description of the hayloft opening in the Heritage Statement was incorrect and that it was not a blocked opening in 2019. The Council's position that a window has been inserted in the hayloft opening is not supported by substantive photographic or other documentary or witness evidence. Consequently, I will delete the reference to the 'insertion of hayloft window in eastern elevation' in the description of the allegation and I will delete requirements (iv) and (v) of the LBEN. Therefore, the appeal on ground (b) succeeds in respect of that part of the alleged works.

The ground (a) appeal

11. This ground of appeal is that the building is not of special architectural or historic interest and implicitly attacks the listing of the building. There is no dispute that the appeal building can reasonably be treated as being within the curtilage of the listed building for the purposes of section 1(5)(b) of the LBCA Act. Nevertheless, this ground of appeal applies to the listed building itself. As The Greyhound Public House is included on the 'list' it is deemed to be of special architectural or historic interest.
12. In this case, the appellant has focussed on whether the appeal building is of special architectural or historic interest and that the listing description makes no mention of it. Since there is no argument that The Greyhound Public House is not of special architectural or historic interest the appeal on ground (a) must fail.

The ground (e) appeal

13. This ground is that listed building consent ought to be granted for the works. As stated previously, the appellant only controls the appeal building. Therefore, I have

¹ Ref No: 2019/1463

² Fig.8 South-east elevation of outbuilding

³ Fig.12 Attic space accessed via metal ladder and view of hayloft opening (SE elevation)

dealt with this ground of appeal on the basis that listed building consent ought to be granted for the works on the appeal building which constitutes part of the overall building attacked by the LBEN.

Main Issue

14. Based on my observations and the evidence before me I consider that the main issue is whether the formation of two window openings in the northern elevation of the appeal building and insertion of uPVC window frames and the painting of the exterior of the appeal building preserve the special architectural and historic interest of the listed building, whether those works preserve or enhance the character or appearance of the LCA and whether the significance of the heritage assets is harmed.

Reasons

15. The Greyhound Public House (the public house) dates from the 17th Century with a late 19th Century front of painted render and tile hanging with a former stable building which is the appeal building. From the details available to me, including the listing description, I consider that the significance of the listed building is largely derived from its age, form, fabric and architectural features, as well as its use. The appeal building is a relatively small former stable which, due to its siting, closely relates to the public house and is experienced in this context. Even though the appeal building has a shop front in its front elevation its materials, siting and form provided a clear indication of the appeal building's former functional relationship with the public house prior to the works being carried out. As a result, I consider that, prior to the works being carried out, the appeal building made a positive contribution to the special interest/significance of the public house.
16. There is a mix of commercial and residential uses close to the appeal site. Based on the evidence before me and my observations the character, appearance and significance of the LCA appears to be derived from the quality and architectural detailing of the historic buildings within it, their limited palette of materials, the historic mix of commercial and residential uses and the relationship of the buildings to each other and the areas between them.
17. The requirements of the LBEN with regard to the 2 new openings and the insertion of uPVC window frames on the front elevation of the appeal building appear to have been complied with. On the day of my site visit the openings and window frames had been removed and the openings bricked up. Nevertheless, based on the evidence before me I share the Council's concerns about their effect on the special interest/significance of the listed building and on the character and appearance of the LCA. The window openings within the first floor of the appeal building were not sympathetic to its utilitarian and simple form as a former stable building. Moreover, the uPVC windows were overtly modern in both materials and design, having wide and heavy looking storm fitted frames, projecting cills and trickle vents. Overall, their appearance was starkly at odds with the simpler construction details of the traditional timber windows within the appeal building. As a result, they eroded the contribution that the appeal building made to the special interest/significance of the listed building and the character, appearance and significance of the LCA.
18. The exterior of the walls of the appeal building were painted white on the day of my site visit and in this regard the LBEN requirements also have been complied with. I acknowledge that various shades of brickwork have been historically associated

with the area. Nonetheless, the grey/purple colour, that the appeal building's brickwork had been painted at the time the LBEN was issued, did not appear to reflect one that had been used traditionally to paint brickwork in this area. Moreover, given the white and black decoration of parts of the walls of the public house a similar decoration of the walls to the appeal building ensures that visually the historical functional link of these buildings is highlighted. The grey/purple paint colour in these respects further eroded the contribution that the appeal building made to the special interest/significance of the listed building and the character, appearance and significance of the LCA.

19. The timber doors, panels and windows on the front and eastern elevation of the appeal building were painted white at the time the LBEN was issued. The timber panels and doors on the rear elevation appear to have been painted grey/purple to match the brick work at that time. At the time of my site visit the door and panel on the rear elevation had been replaced and it appears that listed building consent⁴ has been granted for those works. Therefore, the doors, panels and windows currently relevant to the appeal before me are those on the front and eastern elevation of the appeal building. The painting of those items in a white colour does not appear incongruous in the LCA as there are many examples of similarly painted windows. However, as with the decoration of the walls the black paint colour of those items echoes that of several of the windows and doors on the public house and ensures that visually the historical functional link of these buildings is highlighted. The white paint on these timber features therefore further erodes the contribution that the appeal building makes to the special interest/significance of the listed building and the character, appearance and significance of the LCA.
20. Drawing all of the above factors together, I consider that the unauthorised works as a whole or in part fail/ed to preserve the special interest of the listed building and the character and appearance of the LCA contrary to the expectations of the LBCA Act. I must attach considerable importance and weight to these considerations when reaching my decision. I conclude that the harm caused to the designated heritage assets, is, in the context of the significance of the assets as a whole and in the language of the Framework, less than substantial. In those circumstances, paragraph 215 of the Framework says that this harm should be weighed against the public benefits of the works including, where appropriate, securing its optimum viable use. Even though I have found that the harm to the designated heritage assets is less than substantial, it is not to be treated as a less than substantial objection.
21. I have no doubt that the continued occupation of the appeal building ensures the viability of the building as commercial floorspace in a village centre location, and its long-term preservation. Therefore, the continued viable use of this prominent part of the listed building within the LCA contributes to the vitality of Lingfield as a whole which can reasonably be treated as public benefits. However, there is no substantial evidence before me to demonstrate that the appeal building would not continue to be viable as a commercial unit without these specific works in place. As such, I attach little weight to the public benefits.
22. As a result, the weight attributable to the public benefits does not outweigh the considerable importance and great weight to be given to the harm to the significance of the heritage assets. As such, these works do not comply with

⁴ Ref No:TA/2023/983

paragraph 215 of the Framework, and they conflict with the heritage aims of LP Policy DP20.

Other Matters

23. The references to other development plan policies have been noted. However, the development plan policy to which I have referred is considered the most relevant to this appeal.

Conclusion – the ground (e) appeal

24. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal on ground (e) fails and listed building consent is refused.

The ground (g) appeal

25. The ground of appeal is that the requirements of the notice (as varied) exceed what is necessary for restoring the building to its condition before the works were carried out.
26. There is no need for me to consider the requirements cited as (iv) and (v) within the LBEN, since the appeal in respect of these matters has succeeded under ground (b).
27. The appellant has stated that if I have found that the window openings on the front of the appeal building are acceptable, but the uPVC frames are not then the windows could be replaced with timber ones. However, the ground (e) appeal has been refused and the retention of the openings would not restore the building to its condition before the works were carried out.
28. The appellant also suggests that there is no need for paint removal as set out in requirement (vi) of the LBEN. He considers that instead, the external redecoration works could simply be on top of the more recent paintwork that has taken place. Based on the evidence before me, there is little to indicate that the pre-existing paint on the brickwork of the appeal building was a 'breathable' or mineral based paint. Whilst I understand the Council's concerns in relation to ensuring that paint used in this type of case is 'breathable' the requirements of the LBEN can require no more than restoring the building to its condition before the works were carried out.
29. Given that there is no evidence to indicate that the previous paints used were mineral based or linseed oil paint requiring the repainting the exterior of the building to match the colours that existed before the works were carried out would restore the building to its condition before the works were carried out. Requirement (vi) is excessive therefore and I intend to delete all of its wording including the heading '*Paint Removal*' from section 5 of the LBEN. I also intend to delete the wording '*After removing the grey/ purple and cream coloured paint from the exterior of the building, in accordance with (vi) above,*' from requirement (vii). I also intend to delete the wording '*mineral based*' in requirement (vii) and delete the wording '*black in a linseed oil paint*' and substitute it with '*in a black paint*' in requirement (viii).
30. The appellant has also stated that the timeframe for compliance should be extended. However, this does not fall within a ground (g) appeal as it would fall within a ground (h) appeal - that the period specified in the LBEN as the period within which any step required by the LBEN is to be taken falls short of what should

reasonably be allowed. Nonetheless, most of the requirements, as varied, appear to have been complied with. Therefore, even if I considered this point as a ground (h) appeal I consider that 6 months is reasonable to enable the remaining works to be carried out especially given the time of year. As such, a ground (h) appeal would have failed.

31. The appeal on ground (g) succeeds in respect of the matters cited above.

Other Matters

32. In reaching my conclusions on all of the grounds of appeal I have taken into account all of the other matters raised by the appellant, the Council and an interested party. However, none of these alters any of my conclusions on the various grounds of appeal and nor is any other factor of such significance so as to change my decision.

Formal Decision

33. The appeal is allowed in part, on grounds (b) and (g), and it is directed that the listed building enforcement notice be corrected by:

- deleting the reference to the *'insertion of hayloft window in eastern elevation'* in the description of the allegation

and varied by:

- deleting requirements (iv) and (v) within section 5; and
- deleting requirement (vi) and the heading *'Paint Removal'* within section 5; and
- deleting the wording *'After removing the grey/ purple and cream coloured paint from the exterior of the building, in accordance with (vi) above,'* from requirement (vii) within section 5; and
- deleting the wording *'mineral based'* in requirement (vii) within section 5; and
- deleting the word *'fascias'* from requirement (viii) within section 5; and
- deleting the wording *'black in a linseed oil paint'* and substitute it with *'in a black paint'* in requirement (viii) within section 5; and
- Renumbering requirements (vii) and (viii) as requirements (iv) and (v).

34. Subject to these corrections and variations the listed building enforcement notice is upheld.

D Boffin

INSPECTOR