



Appeal Decision

Site visit made on 30 August 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2025

Appeal Ref: APP/C1435/X/23/3325157

Pell Bridge, Primmers Green Lane, Wadhurst TN5 6DT

- The appeal is made under section 26K of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended ("the Act"), against a refusal to grant a Certificate of Lawfulness of Proposed Works (the LDC).
 - The appeal is made by Mr Matthew Spratt against the decision of the Wealden District Council.
 - The application Ref WD/2023/0537/LDB, dated 22 February 2023, was refused by notice dated 19 May 2023.
 - The application was made under section 26H of the Act.
 - The works for which an LDC is sought is removal of redundant stainless flue and falling tile flashing around main chimney.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form describes the proposed work in detail, but the decision notice issued by the Council states: *the removal of redundant stainless flue and falling tile flashing around main chimney*. For clarity's sake, that is the description I have used in my header above. Essentially, the dispute centres on whether the installation of lead flashing around the chimney constitutes an alteration requiring the authority's consent. This is confirmed by the Council who say that, had the appellant amended the application so that the proposed lead flashings were replaced by tile, then the work would likely to have been considered as "permitted development".
3. However, the correct test is whether the works would be lawful at the date of the application. Here, lawfulness is achieved by demonstrating that the works would not affect the character of the listed building as a building of special architectural or historic interest. Merits of the proposed work, or the carrying out of similar repairs to other listed buildings in the vicinity, or the existence of lead flashings elsewhere, or whether the authority gave contradictory advice at pre-application stage or whether it made a site visit prior to reaching its decision, do not have a bearing on the assessment of whether the proposed works would be lawful. I proceed on this basis having regard to the circumstances of this case and relevant judicial authority.

Inspector's reasons

4. The main issue is whether the decision to refuse the LDC was well-founded.
5. The dwellinghouse is listed at grade II. It is located on a junction on higher ground and set back from the highway. The building has been modernised in the past, but its historic form remains intact. It is a two-storey property with red brick and tile-hung elevations, it has a half-hipped or peg tiled roof and central chimney breast, modern casement windows and a gabled porch. The building retains its special interest, which is mainly derived from its architectural

appearance and the type and nature of the material used in its construction add to its historic interest.

6. The appellant explains that old lead flashing on the roof and chimney already exist, but this work probably dates to the last roof overhaul, which was many years ago. In any event, it does not automatically follow that the proposed work would not affect the character of the building.
7. The argument is that the height of the roof means the lead flashing would not be visible to the naked eye from the public road, but I disagree because of the building's prominent location and setting in the street scene. The proposed works would result in the replacing of the tile flashing with lead and that would result in loss of the old flashing, which is a traditional feature. The repair would not involve the re-use of materials to match the original in substance, texture, quality and colour. The lead flashing would represent an unauthentic and modern feature affecting the character of the whole building. I note that lime mortar and matching reclaimed peg tiles would be used and flashing would be stepped and secure the long-term sustainability of the listed building, but justification for the proposed work requires assessment through an application.
8. On the particular facts before me and contrary to the appellant's submissions, I find that the proposed lead flashing would affect the character of the listed building as a building of special architectural or historic interest.
9. Pulling all the above threads together, I conclude that the Council's refusal to grant a certificate of lawfulness was well founded. I therefore dismiss the appeal exercising powers transferred to me under s26K(5) of the Act.

A U Ghafoor

INSPECTOR