Planning Inspectorate

# Appeal Decision

Site visit made on 16 June 2026

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

**an Inspector appointed by the Secretary of State**

**Decision date: 7th August 2026**

**Appeal Ref: APP/E9505/F/25/3361103**
**Holly Lodge, Church Loke, Coltishall, Norwich NR12 7DN**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).
- The appeal is made by Mr Richard Howlett against a listed building enforcement notice (LBEN) issued by the Broads Authority.
- The LBEN was issued on 23 January 2025.
- The contravention of listed building control alleged in the LBEN is: the alteration of the building without listed building consent by replacing all but one of the timber windows on the main house(qty-26) and timber doors (qty-2) with UPVC windows and doors and installing qty-8 timber shutters to the south elevation.
- The requirements of the LBEN are:
  1) Remove all shutters and their fixings on the south-facing elevation and make good any holes and the decoration to match existing.
  2) Remove all UPVC windows and doors listed in the schedule attached to the LBEN.
  3) Replace all of the windows and doors with timber windows and doors as per the schedule attached to the LBEN.
- The period for compliance with the requirements is: 15 years.
- The appeal is made on the grounds set out in section 39(1)(a), (c) and (i) of the Act.

## Decision

1. It is directed that the LBEN be corrected by:

   - the deletion of the word "planning" and its substitution with the words "listed building" in the title of section 3.

2. Subject to the correction the appeal is dismissed, and the LBEN is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Act.

## Preliminary Matters

3. The appeal form indicates that the appellant is appealing on grounds (a), (c) and (i) as set out in section 39(1) of the Act, therefore, no appeal under ground (d) was made. However, having read all the representations I consider that there is an implied ground (d) appeal. I shall, therefore, consider whether works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary. I am satisfied that this course of action will not cause any injustice to the appellant or the Council.

4. The appellant's evidence refers to photographs showing the shutters in place in 1948, 1952, 1959 and 1968. Nevertheless, those photographs are not before me. Additionally, the appellant has cited The European Convention on Human Rights (the Convention) under Article 1 of the Protocol as set out in Article 1 of the First Protocol of the Human Rights Act 1998 (HRA98). The appellant's evidence in this regard relates to previous planning decisions taken by the Council and that Council's action/s in relation to property inspections. Yet, I have no jurisdiction with regards to the past actions of the Council. In any case, there is no ground (e) appeal and the rights enshrined in the Convention as set out in Article 1 of the First Protocol of the HRA98 are not engaged by the grounds of appeal before me. This is because those grounds of appeal do not allow for consideration of the effect of the decision on individuals and their rights.

## The Notice

5. 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 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. There is an error within section 3 of the LBEN as the title refers to *'breach of planning control'* whereas it should refer to *'breach of listed building control'*. I therefore intend to delete the word *'planning'* and replace it with *'listed building'.* As this is a minor error no injustice to either main party would be caused by this correction.

## Background

6. The official list entry for Holly Lodge states that the property was first listed on 19 January 1952. It goes onto state that the building is grade II and the description within that entry is: "*House, C18, altered and extended in C20. Colour washed brick and render with black pantiled roof. 2 storeys, with north wing and C20 cross wing to west, flat rooted extensions to north, and large pyramidal roofed extension to east. Original facade to south, 3 windows, with central door flanked by canted bays. Central, part glazed entrance door and doorcase with panelled pilasters and consoles supporting projecting cornice. Sash windows with glazing bars. Brick dentil eaves and axial stacks. 3 roof lights. C20 extensions not or special Interest."* Section 30(1) of the Town and Country Planning Act 1947 (the 1947 Act) states that: *"With a view to the guidance of local planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Minister shall compile lists of such buildings, or approve, either with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved."* The statutory list was therefore compiled or approved by the Minister at that time and not the local planning authority.

7. The appellant states that they purchased and moved into Holly Lodge in 1976 and were not told at that time that Holly Lodge was a listed building. However, section 30(3) of the 1947 Act states that *"any such copy as aforesaid shall be registered in the register of local land charges, in such manner as may be prescribed by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925, by the proper officer of the council of the county borough or county district."* As such, when purchasing the property, the fact that it was on the statutory list should have been revealed by the land registry entry.

8. In 1978 planning permission[1] was granted for an extension to the first-floor bathroom. There is a note on the decision notice that the permission shall also operate as listed building consent. In 1979 planning permission[2] was granted for a swimming pool enclosure. The appellant also states that the UPVC windows and doors, that are attacked by the LBEN, were installed in 1991.

## The ground (a) appeal

9. Buildings are listed because they are of special architectural or historic interest and a ground (a) appeal is made when the appellant claims that the listed building that is the subject of an appeal is not of special architectural or historic interest. Thus, for this ground of appeal to be successful, it must be shown that the building no longer merits its listed status. The relevant point in time for making such an assessment is immediately prior to when the works subject of the LBEN were carried out. The appellant considers that the building is in poor structural condition and does not have enough historical or architectural significance to warrant being on the listed buildings register. He also states the interior of the building has never been inspected.

10. Holly Lodge is a 2-storey building situated within Coltishall Conservation Area. The Council's Planning Committee Report states that *"the building is a good example of a relatively large 18th century house and retains many of the features of such a building. It contributes to the story of the development of Coltishall village and its brewery trade, in particular through its links with the 18th century diarist Mary Hardy, who lived in the house."* These details have not been specifically disputed by the appellant, and I have no reason to disagree with them. It appears that prior to the installation of the UPVC fenestration the pre-existing windows and doors provided part of the special architectural interest of the appeal building. The southern elevation with its timber sashes, canted bay windows and the entrance partially glazed door with pilasters, consoles and cornice provided an attractive architectural composition illustrating the building's intrinsic architectural merit. Moreover, based on my observations externally and internally, within the ground floor of the building, the building appears to retain a significant proportion of its original fabric and its plan form.

11. I acknowledge that it is unclear if the listed status of the building was taken into account in 1979 when planning permission was granted for the swimming pool enclosure. Furthermore, that enclosure is a relatively large structure that has no special interest in its own right and due to its size and location it has eroded the positive contribution that the large, landscaped grounds make, as part of its setting, to the special interest of Holly Lodge. Nonetheless, in my judgement the overall special interest of the listed building has been retained. In my experience it was relatively common for the interiors of buildings not to be inspected when buildings were historically added to the statutory list.

12. I also observed that there are signs of structural movement and damp ingress inside the building. However, the general state of repair and upkeep of a building are not usually a relevant consideration when deciding whether it meets the test of special architectural or historic interest. Moreover, it is unclear as to whether the structural movement is historical and whether the damp ingress is at a similar level to that pre-existing to the breach occurring.

[1] Ref No: 78.1112
[2] Ref No: 79.0867

13. Taking the building as a whole it clearly retained and retains intrinsic features of both architectural and historic interest. As such, I am unconvinced that the building is not of special interest or that it should be de-listed. On that basis the appeal on ground (a) fails.

**The ground (c) appeal**

14. Section 7 of the Act says that no person shall execute or cause to be executed any works to a listed building, including those for its alteration, in any manner which would *affect its character* as a building of special architectural or historic interest, unless the works are authorised. Section 8 sets out when works to a listed building are authorised.

15. It is indicated that the appellant replaced the timber windows and doors with UPVC ones "*matching as closely as possible to match the replaced windows and doors*". The appellant considers that photographs indicate that the shutters were in place in 1948, 1952, 1959 and 1968.

16. There is no dispute that the works the subject of the LBEN were carried out without any application being made for listed building consent. In respect of the shutters the appellant's argument appears to be that the shutters were in place at the time of listing. With regards to the windows and doors the appellant must show that the works do not affect the building's character as a building of special architectural or historic interest. It should be noted that the question to be answered is simply whether the character has been *affected*, and not whether the works are considered harmful.

17. As stated previously, the cited photographs are not before me. In any case, if shutters were present at the time of listing it is more likely than not that those shutters would have been included within the list description. Moreover, the photograph, indicated to be dated 1991 by the Council, does not show any shutters on the south elevation. It has therefore not been demonstrated that shutters were in place at the time of listing.

18. The window and door openings at the appeal property are significant and distinguishing features, intrinsic to the building's overall character. The removed windows were traditional white painted timber frames with individual single glazed panes divided by slender structural horizontal and vertical timber glazing bars. The doors also appeared to be painted timber with single glazed panes.

19. The replacement windows now inserted into the openings are of UPVC construction. They have relatively thicker and wider frames with glazing bars that are not structural elements of the frame separating individual panes. The UPVC material also has a modern shiny finish with a precision machine-produced quality. The windows also give off a noticeable 'double-register' reflection. The front and rear entrance doors have panelling sections that are applied to their surfaces. Taken together, these factors emphasise their appearance as modern alterations to a historic building. Irrespective of whether the works carried out result in any harm, or whether they are readily visible in public views, they have undoubtedly affected the character of the listed building. Having seen the building from both near and distant viewpoints, I consider that its character has been affected by the works.

20. I acknowledge that the works were carried out many years ago and that the appellant has stated that he did not know consent was required for the works. However, when such works are carried out a Council is not time-barred from issuing a LBEN if it considers that works to a listed building have affected its character.

21. The appeal on ground (c) therefore fails.

**The implied ground (d) appeal**

22. This ground of appeal is a claim that the works carried out were essential and urgent works necessary to preserve the listed building. The key words here are 'essential' and 'urgent'. As such, three tests must all be satisfied. Firstly, that the works were urgently necessary in the interests of safety or health; secondly, that it was not practicable to achieve the aims of safety, health or preservation of the building by repair or temporary support; and thirdly, that the works carried out were the minimum measures immediately necessary to achieve the aims of safety, health or preservation.

23. From the submitted evidence and my own observations it is apparent that damp ingress and structural movement is evident within the listed building, and I acknowledge the appellant's desire to solve those issues. However, there is little evidence to indicate that the timber windows and doors required wholesale replacement rather than repair or that those replacements were required to solve those issues. In my judgement, the internal floor levels, materials utilised at the base of the walls internally and externally, the materials used to finish the external walls, the external ground levels, water discharge from guttering and down pipes and general drainage infrastructure are much more likely to be the cause/s individually or cumulatively of those issues.

24. Therefore, the appellant's case on this ground is less than compelling. It is credible that the windows and doors were in poor repair due to the damp ingress. Nevertheless, even with that damp ingress it is very likely that the windows and doors in need of repair would have deteriorated over a long period rather than suddenly. That poor repair may have had impacts on the health and well-being of the appellant and his wife. Nevertheless, there appears to be no good reason why these impacts could not have been alleviated by refurbishing and draught-proofing the pre-existing windows and doors, or failing that, replacing them like for like with appropriate timber windows and doors. If the appellant wished to install double-glazed windows and doors, there seems to be no good reason why listed building consent could not have been sought for them.

25. There would have been ample opportunity for forward planning of repair or replacement. Indeed, the wholesale replacement of the timber windows and doors with UPVC ones would have taken some planning over a period, allowing for measurement, manufacture and installation. That period would have allowed for professional advice to be taken on the effect of the UPVC windows and doors on the special interest/significance of the listed building. It has not been shown that the removal of the timber windows and doors and their replacement with UPVC ones represented the minimum necessary measures. I accept that the appellant was unaware that any consent was necessary, but that does not circumvent the requirement to satisfy the three tests I have set out above. The appeal cannot succeed on this ground.

## The ground (i) appeal

26. The ground of appeal is that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose. It is argued that those steps would not be sufficient to restore the building to a state commensurate with listed building requirements as they do not address the defects to be found in the building in particular the damp conditions or the structural movement.

27. However, the steps are not aimed at addressing the damp ingress or structural movement, they only seek the removal of the UPVC windows and doors and their suitable replacements. The former state would have been its previous state without the UPVC windows and doors. Once the steps are complied with then the character of the building would be restored to its former state. The appeal on ground (i) therefore fails.

28. Moreover, the 15-year compliance period ensures that there is sufficient time for a holistic programme of works to be drawn up, approved and finance sourced to address the underlying damp and structural issues, if necessary, prior to the replacement of the windows and doors.

## Other Matters

29. In reaching my conclusions I have taken into account all of the other matters raised by the appellant and by the Council. 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.

## Conclusion

30. For the reasons given above, I conclude that the appeal should be dismissed.

*D Boffin*

INSPECTOR