Planning Inspectorate

Appeal Decision

Site visit made on 14 October 2026

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2026

Appeal Ref: APP/H2265/F/24/3341748
Denvi House, Aldon Lane, Offham, West Malling, Kent ME19 5PH

- 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 Ajmal Mohammad against a listed building enforcement notice issued by Tonbridge and Malling Borough Council.
- The enforcement notice was issued on 27 March 2024.
- The contravention of listed building control alleged in the notice is without listed building consent, the removal of traditionally detailed single glazed timber windows and their replacement with UPVC windows and door into a Grade II listed building ("the Works")
  A) The installation of glazed uPVC access door, top hung single window and double side hung window in the first-floor western elevation as shown in Annex 1 Photo 1 Label 1.
  B) The Installation of glazed uPVC access door, two top/side hung double windows in the ground floor western elevation as shown in Annex 1 Photo 1 Label 2;
  C) The installation of rectangular uPVC windows on the first-floor north elevation as shown in Annex 1 Photo 2 Label 3;
  D) The installation of top-hung/side opening uPVC window on the ground floor north elevation as shown in Annex 1 Photo 2 Label 4;
  E) The installation of side hung uPVC triple panel window in the first floor south elevation as shown in Annex 1 Photo 3 Label 5;
  F) The formation of a new opening and the installation of uPVC framed double window in south elevation as shown on Annex 1 Photo 4 Label 6; and
  G) The installation two of uPVC framed windows in east elevation as shown on Annex 1 Photo 5 Label 7.
- The requirements of the notices are to:
  (i) Remove the unlawful glazed uPVC access door, top hung single window and double side hung window from the first floor west elevation shown in Annex 1 photo 1 Label 1 and replace with the approved double and single timber framed windows as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously there before as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.
  (ii) Remove the glazed uPVC access door, two top hung/side opening double windows in the ground floor west elevation as shown in Annex 1 Photo 1 Label 2 and replace with the approved two double arched timber framed windows and timber door as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously there before as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.
  (iii) Remove the unlawful rectangular top hung uPVC window on the first-floor north elevation as shown in Annex 1 Photo 2 Label 3 and replace with approved timber framed window as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously in place as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.
  (iv) Remove the unlawful top-hung/side opening uPVC window to the ground north elevation as shown in Annex 1 photo 2 Label 4 and replace with the approved timber framed triple panel, full-length windows and barn-style timber doors as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously in place as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.

(v) Remove the unlawful triple side-hung uPVC framed window to the first-floor dormer on south elevation as shown in Annex 1 Photo 3 Label 5 and replace with approved timber framed triple panel window as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously in place as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.

(vi) Remove the unlawful uPVC framed window added into the south elevation as shown in Annex 1 photo 4 Label 6 and revert back what was previously there before as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 with bricks that match the existing dwelling.

(vii) Remove the unlawful two uPVC framed windows in east elevation as shown on Annex 1 Photo 5 Label 7 and replace with the two approved obscure glazed timber framed windows as shown on approved plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2 or revert back to what was previously in place as shown plan 2013/23(37) Rev B of Listed Building Consent 15/00539/LB as attached as Annex 2.

(viii) Prior to those works specified in (i) to (vii) which rely on Listed Building Consent 15/00539/LB being completed, condition 3 which requires details of joinery of fenestration shall have been submitted to and approved in writing by the Local Planning Authority.

(ix) Make good any damage to the fabric of the building caused by requirements (i) to (vii) using where applicable materials that match with the original dwelling.

- The period for compliance with the requirements is 9 months.
- The appeal is made on the grounds set out in section 39(1)(a), (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary Decision: The appeal is dismissed and the listed building enforcement notice is upheld subject to the correction set out in the Formal Decision.

Preliminary Matters

1. The appellant wasn't present for the arranged site visit so, with their verbal permission, I proceeded to access the site alone and view the building from the grounds.

2. In determining this appeal involving works to or that could affect a listed building, its features of special architectural and historic interest or setting, I have had special regard to sections 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

3. The provisions of s41(1) of the Act give Inspectors wide ranging powers to correct or vary enforcement notices, provided that such alterations would not result in injustice to the appellant or local planning authority. In this case, section 4G) of the notice contains a typographical error with the words "two" and "of" in the incorrect order. A correction in relation to this would be minor and not affect the meaning of this section. As a result, it would not cause injustice to either party.

4. The National Planning Policy Framework (the Framework) was published during the course of the appeal. It is a material consideration of critical importance in considering whether to grant planning permission.

The Appeal on Ground (a)

5. An appeal on this ground is that the building is not of special architectural or historic interest. Denvi House was formerly known as The Coach House that reflects its relationship with the neighbouring The Old Rectory. Denvi House is not listed in its own right but the Council suggest that it is within the curtilage of The Old Rectory that is listed Grade II.

6. The definition of a listed building is provided at section 1(5) of the Act and includes any object or structure within the curtilage of a building which forms part of the land and has done so since before 1 July 1948. In these circumstances, it shall be

treated as part of the listed building. The issue in this case, therefore, is whether Denvi House is located within the curtilage of The Old Rectory and has been since before 1 July 1948.

7. Considering the definition of curtilage of listed buildings is a matter of fact and degree on the facts of the individual case, taking account of the physical layout of the site, ownership past and present and the use past and present.

8. I understand that The Coach House was an outbuilding that served as an ancillary outbuilding to The Old Rectory that dates from before 1 July 1948. It remained within the grounds of that house until it was sold to be converted into a dwelling. It is located a short distance from The Old Rectory along a drive that separates from that to The Old Rectory close to the junction with Aldon Lane.

9. Physically, fences have been erected to divide Denvi House from The Old Rectory. The unauthorised changes that have been made to the building disguise its character and appearance as a former coach house. Had the works taken place in accordance with planning permission (reference 14/03366/FL) and Listed Building Consent (reference 15/00539/LB) for the conversion of the building to a dwelling, the historic use as an outbuilding would have remained evident in the appearance of the building to some extent. Ownership is now separate, although I note reference to an ongoing dispute between owners of Denvi House and The Old Rectory. That may affect the physical and ownership relationship between the buildings. It is unclear whether the use as a separate dwellinghouse has commenced. Taking all these factors into account, I consider the relationship between the buildings remains to some extent at this stage.

10. Given the historic relationship with The Old Rectory in terms of use and ownership I consider that it was within the curtilage of The Old Rectory. I accept that the relationship between the buildings has changed with its subdivision from that property. Nevertheless, on the balance of probability, I conclude that changes to the physical layout, ownership and use have not altered the relationship sufficiently to affect whether Denvi House is within the curtilage of The Old Rectory. As it is within the curtilage of the listed building and has been since before 1 July 1948, it constitutes a listed building as defined by section 1(5) of the Act.

11. For these reasons, I conclude that the appeal under ground (a) should fail.

The Appeal on Ground (e)

12. An appeal on this ground is that listed building consent ought to be granted for the works. The Old Rectory is listed Grade II, dates to the eighteenth century and appears to have been constructed as a rectory. The house is two storey with a regular 3 window front with sash windows and segment heads to the first floor. To the front is a columned porch with a panelled door. It has a rendered front elevation with rendered plinth and plat band. The eaves are corbelled to a half hipped plain tiled roof. It is set within a substantial garden area and with a tall stone wall on the boundary with Aldon Lane.

13. The significance of The Old Rectory as a heritage asset is derived from its architectural appearance as a former rectory within a large garden. Denvi House is the former coach house associated with the listed building that contributes to the setting and significance of The Old Rectory through its subservient appearance as a former outbuilding in close proximity to the listed building.

14. The development comprises the insertion of windows and doors into the building that are constructed in uPVC. This is a modern material that differs from that approved on the consents for the conversion of the building to a dwelling referred to above.

15. I note that it is not only the materials in the windows but also their shape that are referred to in the notice. To the elevation facing the access drive, shown at Annex 1 Photo 1 Label 2 of the enforcement notice, the Listed Building Consent approved two double arched timber framed windows. The current windows are simple square casements of a wholly different appearance to those approved. The door is a standard uPVC front door with glazed upper part, again different in character from the solid timber door and segmental arch lintel above on the approved drawings. A replacement balcony has been constructed above with door opening from the first floor. That was not part of the approved development and appears dominant and incongruous on this elevation.

16. What appears now as the side elevation with patio doors toward the rear and square uPVC windows under the mansard roof was the front elevation with the coach house doors leading onto the entrance drive running past the front of The Old Rectory. This change is due to the removal of the coach house doors and replacement with that window. The approved drawings show the character of the building maintained with two sets of patio door openings with timber shutters maintaining the coach house character and appearance to this elevation. That would have maintained the historic appearance and relationship to the listed building that the coach house originally served.

17. Overall, the replacement windows have resulted in a modern and domestic appearance that affect the character and appearance of the building as a former coach house to The Old Rectory. Consequently, the works harm features of special architectural and historic interest of the former coach house now known as Denvi House and the setting of The Old Rectory. As a result, they cause moderate harm the significance of the listed building as a heritage asset.

18. Policy HE6 of the Framework states that substantial weight should be given to the conservation of heritage assets and that any harm to a designated heritage asset is a matter of considerable importance and weight. Where harm has been identified to the significance of a designated heritage asset, this needs to be weighed against any public benefits resulting from the development.

19. The appellant suggest that the Council have previously indicated that the works were carried out in accordance with their instructions and were satisfactory. However, that appears to relate to whether windows required to be obscure glazed in accordance with condition 5 of the planning permission referred to above rather than the appearance of the windows and doors and effect on the special architectural and historic interest of the listed building. They indicate that they cannot afford to carry out the works set out in the notice. The development has resulted in a new dwelling that would contribute to any need for housing in the area. My attention has not been drawn to any particular needs to which it would contribute and, in any event, if developed in accordance with the consents referred to above it would provide the same contribution. As a result, insofar as these benefits are public, they cannot outweigh the harm I have found to the significance of The Old Rectory as a heritage asset.

Conclusion

20. For these reasons, I conclude that the works identified in the enforcement notice harm features of special architectural and historic interest of the listed building and the setting of listed The Old Rectory. The appeal under ground (e) must fail.

Formal Decision

21. It is directed that the listed building enforcement notice be corrected by the deletion of the words "two of " and their substitution with the words "of two" in section 4 Breach of the Listed Building Act paragraph G).

22. Subject to the correction 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).

AJ Steen

INSPECTOR