



Appeal Decisions

Hearing held on 10 October 2012

Site visits made on 9 and 10 October 2012

by **Anthony J Wharton** BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 October 2012

Appeal Refs: APP/N1350/F/12/2179322 & APP/N1350/F/12/2179477
1 Manor Farm Court, Bishopton, Stockton-on-Tees TS21 1GL

- The appeals are made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr R E Wall and Mrs E J Wall against a listed building enforcement notice issued by Darlington Borough Council.
 - The Council's reference is E/12/01
 - The notice was issued on 13 June 2012.
 - The contravention of listed building control alleged in the notice is the construction of a flue to the gable at the south east elevation of the building (the Development).
 - The requirements of the notice are as follows:
 1. Remove the flue constructed at the gable at the south east elevation of the Building.
 2. Make good the brickwork in the south east gable elevation of the Building associated with the removal of the flue.
 - The period for compliance with the requirements is Three Months.
 - The appeals are made on ground (a), (c), (e) and (h) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeals are allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the retention of the flue to the gable, at the south east elevation of the building, at 1 Manor Farm Court, Bishopton, Stockton-on-Tees TS 21 1GL.

Background information

2. Manor Farmhouse was listed Grade II in 1988 and the appeal building, which is attached to the farmhouse, was formerly part of an agricultural long barn dating back to at least 1856. The former barn is deemed listed by virtue of Section 1(5)(b) of the Planning (Listed building and Conservation Areas) Act 1990 (PLBCAA). The building lies within the Bishopton Conservation Area in the centre of the village and has now been converted for residential use. The appellants live in the first unit.

3. The conversion of the long barn was the subject of a complaint to the Local Government Ombudsman (LGO) in 2008. The complaint was upheld and the Council was found to have acted with maladministration in reaching its 2005 and 2006 decisions in relation to planning permission; conservation area consent and listed building consent for the barn.

4. A copy of the LGO Report has been submitted by the occupiers of the adjacent property to the east, (The Old Vicarage) and I have noted its contents. However, whilst acknowledging that this complaint is peripherally relevant, in that it is a part of the planning history of the listed building, I am only empowered to deal with the notice before me which relates to the black-painted external flue which has been installed on the upper part of the south east gable of the building. The Council

considered it to be necessary and expedient to take listed building enforcement action and I have dealt with the case on its merits and in accordance with each of the grounds of appeal as set out below.

The appeals on ground (a)

5. It is common ground that the building is listed and that it is shown on the OS Map as dating back to 1856. There is disagreement between the parties and the interested persons about its merit as a listed building. The appellants contend that, at the time of listing, the Historic Building Inspector (HBI), although incorrect in referring to the barn as being of 20th century construction, indicated that the farm buildings (including the long barn) were 'not of interest'.

6. It is also the appellants' view that many physical changes to the long barn and the creation of new 'planning units' have detracted from its historic qualities and interest and that it is, therefore, appropriate to amend the listing description and to exclude the former barn. It is stressed that this position is consistent with changes to the listing process currently being considered within the Enterprise and Regulatory Reform Bill. In particular this includes a provision for a HBI or the Secretary of State to list only those parts of a building that are considered worthy of such listing.

7. It is stressed, therefore, that the barn was not of sufficient interest to be listed in its own right in the first place; that only Manor Farmhouse itself is worthy of retaining its listing and that the changes to the barn reinforce the arguments for de-listing. The Council's view is that the HBI was referring to buildings attached to the southern wall of the long barn and, despite the changes that have been carried out, the long barn is still worthy of retaining its listed status.

8. The parties' views of what might have been in the mind of the HBI at the time of listing do not assist me at this stage and neither do any of the comments or assertions made in relation to the Council's past or present stewardship of the historic assets of the Borough. On this ground of appeal I must make a judgement (based on the listing criteria; the list description and the existing architectural and historic qualities of the building) as to whether or not the barn it is still worthy of its listed status.

9. Having seen the building and having considered all of the material considerations, I agree with the Council that this former long barn (to Manor Farm) it is still worthy of its listed status. Despite the many changes that have been carried out over recent years, the barn is still physically and visually linked to the farmhouse. Although of later construction, the barn is still perceived as an architecturally and historically interesting structure which was clearly a part of the former working farm. As well as still contributing positively to the character and appearance of the conservation area in the centre of Bishopton, I consider that the barn also contributes positively to the setting of the main farmhouse and that, together, as linked listed structures, they clearly form part of the historic environment of Bishopton and are heritage assets that both need to be protected.

10. In terms of its architectural interest, despite the changes, the barn remains as a most important example of a former agricultural building in the middle of the village. The brick walls and tiled roof are still prominent architectural features and the barn is still seen as a continuation of the front elevation of the farmhouse. With regard to historic interest, the barn and the house illustrate an important aspect of the area's social, economic and cultural history. I agree that some of the qualities of the listed barn have been detrimentally affected by the works carried out. However, in my view there is sufficient remaining physical form and fabric of the barn to justify its continued statutory protection afforded by listing through Section 1(5)(b) of the

PLBCAA. It is also my view that, even if a HBI had the discretion to consider 'selective listing' through future legislation, the importance of the two buildings being listed together, and seen together, would be likely to outweigh any arguments for de-listing the barn itself.

11. In conclusion I consider that the building is still of sufficient special architectural and historic interest to warrant its listed status and do not consider that it should be de-listed. The appeals fail, therefore, on ground (a).

The appeals on ground (c)

12. Having seen the positioning and appearance of the flue I consider that it is clearly noticeable on the gable wall. At around 1.7m in total height and in this particular position, I consider that it does affect the character of the barn as a building of architectural and historic interest. It is a prominent feature on this part of the building and, in my view; it also affects the setting of the listed barn. I disagree with the appellants that the flue is 'masked in part' by the satellite dish. Irrespective of whether or not it results in a positive, neutral or negative effect, I do not consider that its visual impact is 'minimal'.

13. The works relating to the installation of the flue have clearly been carried out and these works have affected the character of the building. In the absence of any listed building consent for these works, a contravention of Section 9 of the PLBCAA has occurred and the appeals also fail on ground (c).

The appeals on ground (e)

14. The main issues are, the effect of the flue as installed on the listing building, its setting and its features of special architectural and historic interest and, secondly, its effect on the character and appearance of the Bishopton Conservation Area.

15. In considering whether to grant listed building consent, and in accordance with section 16(2) of the PLBCAA, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. I have also paid special attention to Section 72 of the same act relating to the desirability of preserving or enhancing the character or appearance of the conservation area.

16. I have concluded above that the building still merits its listed status. I consider that some of the works which have been granted consent have detracted from the appearance of the building. In particular, I find that the heightening of the building; the crudely executed widening of the frontage windows; the installation of what appear to be synthetic stone lintels; the new brick sills and the general pointing of the brickwork all detract from the character and appearance of the building.

17. Having seen the flue from both near and distant viewpoints, I accept that from certain positions, it is distinctly noticeable and in an unusual position on the gable of the listed building. However, in my view, it does not detrimentally affect the preservation of the listed barn. In fact I find it less intrusive (in terms of preservation) on this 'utilitarian' looking barn than the works mentioned above. When seen from the northwest only the very top section is noticeable and, although the full length is clearly visible from certain points to the northeast, more long distance views of the flue are restricted due to its position within the narrow access between the gable and the high wall of adjacent property. The fact that it is powder-coat finished in black helps, as this colour matches the gutters and rainwater goods.

18. Because of the limited viewpoints, I am also satisfied that the settings of both the barn itself and the farmhouse are preserved. The fact that the flue does not

penetrate the tiled roof means that its overall height has been able to be restricted and this compensates, in my view, for the fact that it has penetrated a small section of the gable wall. In this respect one important architectural and historic feature of the building has been slightly affected; that is the gable wall. However, on the other hand, the long unbroken line of roof, which is one of the main elements of the long barn, has been retained. This accords with that part of the English Heritage (EH) guidance on the conversion of farm buildings, where it refers to flues having minimal impact and avoiding the need for penetration through roof slopes.

19. The National Planning Policy Framework (the Framework) sets out the appropriate approach in dealing with alterations to listed buildings. The Council's Policy CS14 (of the Darlington Core Strategy adopted in May 2011), accords with this national policy guidance. Policy CS14 seeks to protect, enhance and promote the quality and integrity of Darlington's nationally significant built heritage. The Framework principles relate to the desirability of sustaining and enhancing the significance of heritage assets; assessing the impact of any proposed development; considering the weight to be given to conservation and acknowledging the fact that the significance of an asset can be harmed through alteration.

20. In this case I do not consider that the significance of the listed building or its conservation has been harmed by this small alteration. In my view, although the appeal building might have looked better without the flue, I do not consider that it causes substantial harm, or anywhere near the 'total loss of significance' referred to in the Framework. Whilst acknowledging that consent should have been sought for the works and although it is in a prominent position, in the particular circumstances of this case the flue is a practical, acceptable and pragmatic solution to secure the viable use of the sustainable wood-burning stove installed in the property.

21. I do not accept the contention that a masonry flue might have been more appropriate in this case. The width of the access to the dwellings is restricted and the necessary dimensions of a brick flue, in any case, would have resulted in an incongruous and inappropriate addition to the gable end. The EH guidance clearly indicates that metal flues of this type can be appropriate if carefully positioned and painted so that they do not reflect sunlight. I accept that the flue does not 'enhance' the building but it is going too far, in my view, to suggest that, in allowing the flue, it would not be protecting or promoting the quality and integrity of one of heritage assets of the Borough.

22. In conclusion on the listed building issue I consider that the works carried out (the installation of the flue) at 1 Manor Farm Court preserve the listed building, its setting and its features of architectural and historic interest. The works accord with Core Strategy Policy CS14 and also accord with the Framework guidance in relation to the protection of this particular, much altered, heritage asset.

23. Turning to the effect of the flue on the conservation area, I am also satisfied that both the character and appearance of the Bishopton Conservation area are also preserved. This central area of the village, clustered around the church and the public house, is characterised by a variety of old and more modern dwellings all of which contribute in scale form and detailing to the character of Bishopton. Taking this overall character and appearance into account the appeal flue, like others in the vicinity, although not enhancing the conservation area, does preserve its character and appearance..

24. During my visits to the site and the village I noted other existing metal flues on some of the attractive older properties. I found that two of the flues were even more noticeable and intrusive than the appeal flue. The first of these was at The Old

Vicarage adjacent to the appeal site. This tall flue, with its top heavy cowling, sits uncomfortably and awkwardly against the backdrop of this fine building and is distinctly more noticeable as an element within the conservation area. So too is another tall metal flue on a house, beyond the church, to the southeast. I was informed that these two buildings do not have listed status but they are, nevertheless, important buildings and contribute positively to the fine character and appearance of the conservation area. The fact that the appeal flue is not as tall, or as noticeable, reinforces my view that the character and appearance of the conservation area is preserved and that it should be allowed to be retained.

25. In conclusion I consider that listed building consent should be granted for the flue, as installed, on the gable end wall of this former barn. The appeals succeed, therefore, on ground (e) and the listed building enforcement notice will be quashed.

26. The appeals under ground (h) no longer fall to be considered

27. In reaching my conclusions in this case I have taken into account all of the other matters raised by the Council, including the planning history; other references to local and national policies; comments on the EH advice and all of the details set out in their appeal statement and appendices. I have also taken into account the representations of HW and PA Bence. These representations are set out in their letter of 16 August 2012 which supersedes a previous letter. They include, amongst other things, references to the footpath; the adjacent brick flue; the list description and the 'wishes of the HBI'; previous concerns about the development as a whole; errors in the appellants' submissions; references to the previous appeal decision (APP/N1350/E/041145674); the photographic evidence; the Core Strategy Policy CS14 and the LGO Report.

28. However, none of these other matters raised, by either the LPA or the interested persons, carries sufficient weight to outweigh the conclusions I have reached in relation to each of the grounds of appeal and nor is any other factor of such significance so as to alter my decision.

Anthony J Wharton

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr S Barker

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Mr R Wall Appellant

Mrs E Wall Appellant

FOR THE LOCAL PLANNING AUTHORITY:

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Darlington Borough Council

Mr A Errington

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