

Statement in written representations cases (LB Enforcement)

Submitted by:	Kettering Borough Council
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Appeal reference: APP/	L2820/F/07/2056531
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LPA enforcement notice reference:	ENFO/2007/00162
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Location of alleged breach/contravention
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17 Main Street, Ashley, Market Harborough LE16 8HF

Description of the Site

The property comprises the left hand part of a pair of two storey semi-detached dwellinghouses, known as 17 and 19 Main Street. The properties are listed as one entry in the statutory list, for group value. The rear of the property overlooks neighbouring gardens, with only glimpses visible from public areas. The front slope of this pair of properties is roofed in Welsh slate, while the rear slope of number 19 is Welsh slate as well. The rear of number 17 (the subject property) was roofed in the local Collyweston stone slate, but this has recently been replaced with Welsh slate. Over the years, both properties have been the subject of various alterations, some sympathetic, some less so. Outbuildings to no.19 and the nearby properties at 13 and 15 are roofed in Collyweston.

Reasons why the enforcement notice was issued

The unauthorised removal and loss of the Collyweston stone slates from the rear roofslope and their replacement with Welsh slates represent works of alteration which affect the character of the building as a building of special architectural or historic interest, for which no authorisation has been given. These works of alteration are unjustified; have resulted in the loss of historic fabric and the loss of materials, which, to a greater extent, would have been capable of re-use.

Policies and Plans

As the appeal relates to a breach of listed building control, the provisions of the development plan are not strictly relevant.

PPG 15: 'Planning And The Historic Environment' advises on the approach that LPA's should adopt in protecting the historic environment, as follows:

Para.1.1; on the fundamental importance of protecting the historic environment,

Para. 2.16; on the desirability of preserving the setting,

para. 3.3; that listed buildings ..“ can be robbed of their special interest as surely by unsuitable alteration as by outright demolition. They represent a finite resource and an irreplaceable asset. There should be a general presumption in favour of the preservation of listed buildings, except where a convincing case can be made out against the criteria set out in this section, for alteration or demolition. While the listing of a building should not be seen as a bar to all future change, the starting point for the exercise of listed building control is the statutory requirement on local planning authorities “to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” (section 16). This reflects the great importance to society of protecting listed buildings from unnecessary demolition and from unsuitable and insensitive alteration and should be the prime consideration for authorities in determining an application for consent”.

Statement of Case

The proposal to reroof the rear slope of no.17 has been the subject of two applications for consent by successive owners of the property. The first such application in 2005 (Appendix A) was never determined as further information was requested but not forthcoming and the applicants then disposed of their interest in the property. Subsequent owners made the later application (Appendix B), after they had made the alterations, in an effort to regularise the works pending the sale of the property to the current owners (the appellants). The application included impact and justification statements. It should be borne in mind when considering the justification to utilise Welsh slate, that the work was carried out by a general roofer, not a Collyweston slater or conservation specialist.

Consideration of the application turned on two issues; Impact on building and availability of new slate (it would have been expected to reuse up to 70% of the pre-existing material, although it is acknowledged that this can no longer be the case). The case officer's report is attached at Appendix C. The application was refused for the reasons stated.

In response to the specific grounds of appeal, the Local Planning Authority would argue:

▪ Ground (e):- LBC should be granted

The appellants assert that the roof is not visible. It is accepted that there are limited views of the roof elevation from the road, however as this could be argued in relation to the interior of any listed building, and as these areas are

also listed, it is clear that such an argument on its own, is insufficient to justify consent being granted. It should also be noted that the roof slopes can be seen from the garden and path through the garden over which some villagers have access to a water pump (now not working).

They contend that $\frac{3}{4}$ of the roof of the building has been Welsh slate since the early 1900's and that neither slate may have been the original roof material, therefore consent should be granted. This conflicts with national policy advice contained in PPG15. Annex C: Guidance on alterations to listed buildings (paragraphs 2,3, and 27-30) which advocates retention, repair and like for like replacement of distinct types of building and local materials; stresses the importance of the roof as a feature of a building; as well as the need to retain the patterning and coursing of locally distinctive materials.

When considering the 2005 application the County Council's Conservation Officer observed that Collyweston stone makes a unique contribution to the distinctive local character, the survival of which is threatened by cheap modern materials as much as it was in the 19th century by the availability of Welsh slate. The very limited supply of new material heightens the importance of conserving buildings roofed in this material.

The appellants contend that a replacement Collyweston roof may put structural strain on the building and therefore consent should be granted. The appellants themselves have indicated that the pre-existing roof coverings had existed since at least the early 1900's. There is no indication that such a situation had caused structural strain (other than some issues of water ingress in recent years). It seems somewhat unlikely that a return to this situation would therefore cause structural strain. The appellant has offered no details of an investigation as to how the joint between the Welsh and Collyweston slates could be made, or why there is not a method which would overcome the need to replace the roof in a different material. It is a possibility that the advice of Claude Smith in connection with the 2005 application (Appendix E) may have been coloured by his proposed reuse of the salvaged material on another contract referred to in his letter. In the absence of an assessment of the feasibility or otherwise of making a weatherproof joint, there is no justification to consent to the works.

▪ **Ground (i):- The steps required would not serve the purpose**

The appellants claim that, in the absence of a specification for making a weatherproof joint between Welsh and Collyweston slate roofs, the requirements of the notice do not serve the purpose of restoring the building to its former state. In response the Local Planning Authority would state that the absence of such a specification does not have this effect at all. It is accepted that a weatherproof joint would be a desirable feature in the works, which would secure the long term protection of the buildings. However, the local planning authority is constrained by case law as to whether it can require an improvement of the building by comparison with the state prior to the works having been carried out i.e. an excessive requirement. A leading case in this regard is *Bath City Council v. Secretary of State for the Environment* [1984]

47 P & CR 663 where the court held that the steps required by the notice would result in an improvement and the power had been misused. Should the Inspector find that a joint ought to have been specified, it is within her/his power to amend the notice accordingly.

▪ **Ground (h):- Period allowed is too short**

The purpose of specifying new Collyweston stone was precisely because of the effect that increasing demand for reclaimed material results in the unnecessary stripping of sound roofs in order to maintain supply.

There are limited supplies of new Collyweston slate. The case officer's report to the refused application indicates that log is available from one or more sources and it is a condition of the planning permission for quarrying at Bullimore's quarry that 200 tonnes of log be made available each year. (see Appendix C).

On this basis it would appear that supplies of new material are readily available. Accordingly the period for compliance is not too short.

The Inspector is respectfully requested to dismiss this appeal. In the event that the Inspector decides to grant consent, there are no suggested conditions to be applied.

Appendices:

Appendix A – 2005 Application and justification

Appendix B – 2007 Application and justification

Appendix C – Officer report on 2007 Application

Appendix D – Refusal Notice to 2007 Application

Appendix E – Claude Smith letter supporting 2005 application
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