



Appeal Decisions

Site visit made on 1 April 2008

by

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

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Decision date:
29 May 2008

Appeal Ref: APP/L2820/F/07/2056531 and 2056532 17 Main Street, Ashley, Market Harborough, LE16 8HF

- 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 Dr Lianne Gibson and Robert McNeill against a listed building enforcement notice issued by Kettering Borough Council.
- The Council's reference is ENFO/2007/00162.
- The notice was issued on 24 August 2007.
- The contravention of listed building control alleged in the notice is the removal of a natural Collyweston stone slate roof covering to the principal rear roof slope of the building and replacement with Welsh slate in contravention of s9(1) of the Act.
- The requirements of the notice are:
 - a) Remove the Welsh slates and associated battening and felting.
 - b) Completely recover the principal rear roof slope of the property with new natural Collyweston stone slates by:
 - i) Felting the roof with a breathable felt to conform with BS 747 Part 4 1974.
 - ii) Re-battening the roof with pressure treated, soft wood battens fixed with galvanised steel nails.
 - iii) Laying the new Collyweston stone slates in diminishing courses from eaves to ridge. These shall be fixed with non-ferrous, clout headed nails and spot bedded using a non hydraulic lime based mortar which does not include any Portland cement.
 - iv) Finishing the roof with hogs back clay ridge tiles without any ventilation, bedded on and pointed in non hydraulic lime based mortar which does not include any Portland cement.
 - v) All lead flashing to be of milled sheet lead to BS 1778.
- The period for compliance with the requirements is 36 months from the date the Notice takes effect.
- The appeals are made on the grounds set out in section 39(1)(e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

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1. I direct that the listed building enforcement notice be varied by deleting requirements b) (i) to b) (v) and replacing them with the words 'completely recover the principal rear roof slope of the property with new natural Collyweston stone slates to be laid in diminishing courses from eaves to ridge with a waterproof cement fillet at the junction with the neighbouring roof in a manner to accord with photo attached to this decision'. Subject to these variations, I dismiss the appeal and uphold the listed building enforcement notice, and refuse listed building consent 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.

7. Thirdly, the appellants contend that a replacement Collyweston roof may put structural strain on the building and therefore consent should be granted for the retention of the Welsh slate roof. However, the appellants say that the pre-existing roof coverings had been in place since the early 1900s and there is no evidence to suggest that such a situation had caused any structural strain. As a matter of fact and degree, it seems unlikely that a return to this arrangement would cause structural strain.
8. In my conclusion the Collyweston slate roof was an integral part of the Listed Building and I have found no overriding reason why it should not be put back. The appeal on ground (e) fails.

Ground (i) – 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

9. The appellants original submission argues that the notice requires the replacement of a sound waterproof roof with a roof which does not specify a solution to the need to construct a waterproof joint between the roofs of Nos. 17 and 19.
10. Subsequently, the appellants have commented upon the Council's suggestions for a waterproof joint which were put in at my request. They consider the methods proposed are unsuitable because they would not provide a guarantee of a waterproof joint and because they would involve significant work being undertaken on the roof of No. 19 for which the owners of No. 19 will not give permission.
11. I do not disagree with the appellants' surveyor who advised that 'there are considerable difficulties in forming a watertight junction between Collyweston tiles and Welsh slates'. And, this is no doubt why the Specialist Collyweston Stone Slater who advised the former owner in connection with the 2005 application, showed a clear preference for replacing the Collyweston slates with Welsh slates. But, that is not to say that it is impossible to provide a satisfactory waterproof joint and I do not consider that such options were properly explored by the appellants' predecessors in title, or by the appellants in the current appeal.
12. Whilst I have already concluded that the Collyweston slate roof is an integral part of the Listed Building must be put back, the difficulty now is that the enforcement notice cannot seek an improvement to the roof or its junction with the neighbouring property. Nevertheless, from the evidence, the former Collyweston slate roof was in existence alongside the Welsh slate roof from the early 1900s. And, from the photograph submitted by the Council, there was formerly a cement fillet along the join of the 2 slate roofs. It seems to me that this detail must have provided a reasonably satisfactory waterproof joint to have lasted for around 100 years. Furthermore, the evidence suggests to me that the relatively recent problems from leakage occurred because the Collyweston slates were crumbling and not necessarily because the joint was failing.
13. Any negotiation with the adjoining neighbours is a matter for separate legislation and is not before me in these appeals. But, in any event, I do not accept that the works involved in re-instating the Collyweston slate roof with



Photo

This is the photo referred to in the Appeal Decision

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