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## Appeal Decision

Site visit made on 20 October 2015

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

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

**Decision date: 30 October 2015**

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**Appeal Ref: APP/A3010/F/14/2219456**

**Eaton Hall College, Great North Road, Gamston, Retford DN22 0PR**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by the Junaid Pirzada against a listed building enforcement notice issued by Bassetlaw District Council.
  - The Council's references are 14/00022/S88 & E17/11/1.
  - The notice was issued on 1 May 2014.
  - The contravention of listed building control alleged in the notice is as follows:  
The removal of single glazed timber windows and their replacement with 59 no UPVC double glazed timber windows together with the affixing of 8 no satellite dishes and the insertion of 1 no UPVC door.
  - The requirements of the notice are as follows:  
All UPVC windows and doors shall be removed and replaced with timber windows and doors and all satellite dishes removed as identified on elevations A-G of the attached plan and elevations. All replacement windows and doors shall observe the requirements set out in section 5 of the notice.
  - The times for compliance are varied and are set out in section 6 of the notice.
  - The appeal is proceeding on grounds (a), (e) and (i) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) as amended.
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### Decision

1. The appeal is dismissed and the Listed Building Enforcement Notice is upheld as varied (see formal decision below).

### Matters of clarification and background information

2. The early 19<sup>th</sup> Century appeal building, with later additions, was listed in Grade II on 14 November 1985 (List entry Number 1267102). It was formerly a house but at the time of listing was a college called Eaton Hall International. It is still an educational establishment and is now the Jamia Al-Karam Secondary School. The building is of white stucco finish with a slate roof. The south elevation (Elevation A in the notice) and part of the west elevation (Elevation B in the notice) are still distinctly recognisable from the list description. The rest of the elevations (C, D and E in the notice) have been altered over the years including the installation of the fire escape.

3. The 20<sup>th</sup> Century buildings to the right and the rear of the listed building were not included in the listing. There are other numerous modern buildings within the grounds and from the rear the 19<sup>th</sup> Century listed building is mainly recognisable by its roof and the chimney stacks. The UPVC door referred to is at the top of the fire escape on Elevation C attached to the notice. There are a total of 59 UPVC windows which have replaced timber windows in elevations A to E.

4. Since the notice was issued the appellant and the school have carried out significant improvements to the listed building. This includes repairs to walls and full repainting of the stucco walls. It is, therefore in a much better condition than it was when the elevation photographs (attached to the notice) were taken. However, the 59 UPVC windows remain in place.

5. The most relevant development plan policy is policy DM8 of the Bassetlaw Core Strategy and Development Management Policies DPD (BCSDMP DPD). This seeks to protect and enhance the historic environment including the assets of listed buildings and to secure their long-term future. There is a presumption against works of alteration that are detrimental to the significance of an asset and which are of inappropriate scale, design and materials. It is indicated that proposals which fail to preserve or enhance the setting of a heritage asset will not be supported by the Council.

6. Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) states that: *'no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in a manner which would affect its character as a building of special or historic interest, unless the works are authorised'*. In this case listed building consent was not sought for the works set out in the notice. It is evident from my inspection that the original character of the building has been affected by the insertion of the UPVC windows and the multiple satellite dishes.

7. I turn later to whether the effect on the character is negative, positive or neutral but, in reaching my conclusions on the grounds of appeal I have had special regard to the requirements of section 16(2) of the PLBCAA. I have also had regard to the major material consideration: the National Planning Policy Framework (NPPF). In particular, I have taken into account policies within section 7 (Requiring Good Design) and section 12 (Conserving and enhancing the historic environment). I have also had regard to the policies within national Planning Practice Guidance (PPG) which seek to protect our heritage.

### **The appeal under ground (a)**

8. This ground effectively challenges the listing and I note that it is the appellant's view that *'the original features of the building have now disappeared and that the building cannot be maintained as a listed building due to the high maintenance cost'*. In this ground of appeal, therefore, the appellant is suggesting that the building is no longer worthy of being a listed building.

9. Clearly the Council disagrees and stresses that when it was listed in 1985 at Grade II the relevant *'Principles of Selection for Listed Buildings'* clearly indicated that this early 19<sup>th</sup> Century house with its symmetry, proportion, stucco finish and detailing were all typical of country houses of its time. The Council refers to the house standing in large grounds with a lined drive to the north east. It is also indicated that although the building was converted to a school in the 1950s and was eventually surrounded almost by 20<sup>th</sup> Century buildings, it was still considered worthy of listing in 1985.

10. Having visited the building and having seen it in its context I consider that it is still distinctly recognisable from its list description. Although some architectural and historic features might have *'disappeared'* it is still evident that this was once a significant country house of merit. Despite the many changes to the rear of the building the main frontage and the initial return section of the west elevation are instantly recognisable of the early 19<sup>th</sup> Century country house style.

11. The only elements not recognisable as original on these two elevations are of course the UPVC windows and the satellite dishes. In my view, despite the many alterations carried out over the years, the building is still worthy of its listed status. It remains a building of special architectural and historic interest. Its significance lies in its overall symmetrical design to the frontage proving an excellent example of its type and date. I do not consider that it ought to be removed from the statutory list. It remains a listed building and the appeal on ground (a) must fail.

### **The appeal under ground (e)**

12. The main issue is the effect of the unauthorised works on the character and integrity of the building; on its setting and on its special features of architectural and historic interest.

#### *The main south elevation and its westerly return (A and B attached to the notice)*

13. Having seen the building, but particularly the two main elevations which I refer to above (A and part of B), I consider that the UPVC windows as installed are significantly harmful to the character of the listed building. On the main (south) elevation at ground floor level, there is a mix of inappropriate windows. There are top-hung windows to the right hand bay (east) and casements with toplights to the curved bays. All of these fittings are crude and basic and detract markedly from the appearance of the building. The window frames are thick and bulky and the overall fenestration pattern looks alien and obtrusive.

14. At first floor level at least all of the windows are of the same design. But again the thickness of the UPVC frames combined with the top hung opening lights appear as obtrusive elements. The inappropriate frames clash visually with the stone window surrounds and the stone triangular entablatures over the windows. They do no justice at all to this fine architectural and historic elevation. The second floor windows with their one third height (or thereabouts) top hung opening lights are even more visually obtrusive in my view. They appear as modern domestic windows and are completely out of place on this historic elevation.

15. I acknowledge that the elevation now looks clean and pristine with its new coat of paint. However, I consider the overall window pattern and types to this principal elevation are harmful to the building. Turning to the return section of the west elevation, with its stone portico and small bay window to the right (south), this also looks pristine in terms of the clean white painted finish. Again however, the top-hung opening lights to the bay window and the two windows at first and second floor all appear as alien additions to this entrance façade. The UPVC frames to the windows contrast starkly with the fine timber doors.

16. I find all of the above windows in these elevations to be contrary to policy DM8 of the BCSDMP as well as to design and conservation policies of the NPPF. They are harmful to the integrity of the listed to its setting and to the historic and architectural stone window detailing. I do not consider, therefore, that listed building consent should be granted for these particular windows.

17. With regard to the satellite dishes (6) on the principal elevation, I also find the proliferation of these modern pieces of telecommunications equipment to be visually harm to the building, its setting and the its special architectural and historic features: namely the windows. They are randomly placed and to quote a well-known saying in relation to buildings '*they appear as carbuncles on the face of a good friend*'. I do not consider, therefore that these elements should be granted listed building consent. In any case it should be perfectly possible to site one or

more communal satellite dishes on the vast area of building(s) available to the appellant and the school.

*The other elevations (C, D, E and F as attached to the notice)*

18. Because of the many alterations over the years, I do not consider that these three elevations are as important to the significance of the heritage asset as the front and entrance elevations. However, despite the changes to the elevations themselves and the adjoining later buildings, elevations C, D, E and F are still recognisable as being part of the original house and the impact of the UPVC windows is still, in my view, detrimental to the integrity of the building.

19. On elevation C, the inappropriateness of the thick-framed UPVC windows at first and second floor levels is emphasised by the remaining timber sash and case windows. On elevation D there are different types of UPVC window and the three-light vertical windows (with middle opening light) are the most obtrusive. The UPVC windows jar markedly with the remaining sash and case windows and the overall visual effect is one of a 'hotchpotch' of fittings that is, in my view, as harmful as the works carried out to the principal elevation.

20. Despite being at the rear of the build and being less obviously visible than those to the main elevations they are still recognisable as belonging to the structure of the original listed house/college. The fenestration pattern to the elevations is a combination of earlier timber windows 'clashing' in style with the new UPVC components. Again, therefore there is a 'hotchpotch' of windows and the UPVC ones are detrimental to the character of the building.

21. My conclusion is that the windows to elevations C, D and E are harmful to the character of the building, to its setting and to its special features of architectural and historic importance. The special features in this case are the remaining sash and case windows at the ground and first floor levels (elevations C and D) and those shown in E and F). Again, I find that the unauthorised windows in these elevations are contrary to policy DM8 as well as to the design and conservation policies of the NPPF. It follows that I do not consider that listed building consent should be granted for their retention.

22. With regard to the two satellite dishes to the rear of the building, I do not consider that they harm the listed building in any way. In my view they are 'de minimis'. I shall, therefore, vary the notice and the time for compliance. The latter in any case refers only to 2 satellite dishes being removed. I will change this to 6 satellite dishes all to be removed from Elevation A.

23. I acknowledge and sympathise with the situation in which the appellant and the school now find themselves and understand the cost involved in replacing these windows. However, there is no possibility that windows of this type and material would have been granted listed building consent in the first instance and there can be no justification to grant consent at this appeal stage. The appeal fails, therefore, on ground (e).

### **The appeal on ground (i)**

24. To be successful on this ground it must be conclusively shown that the steps required by the notice for the purpose of restoring the building to its former state would not serve that purpose. However, there is no evidence submitted to show that the requirements would not serve their purpose. From the Council's submissions and from my own inspection it is clear that if the requirements are all followed then the character of the listed building would be restored. The appeal, therefore, fails on ground (i).

## **Other Matters**

25. In reaching my conclusions I have taken into account all of the other matters raised by and on behalf of the appellant. These include the planning history of the site; the fact that the County Council allowed the building to deteriorate; the fact that the appellant is a registered charity; that the other buildings on the site are unsympathetic to the listed building; that the satellite dishes were fitted by former staff; the tight budget constraint under which the school operates; the poor state of the timber windows replaced; the risk to the business and the contention that due to its isolated location the building has little impact on the local environment.

26. However, none of these factors carry sufficient weight to alter my conclusions on the main points at issue and on the grounds pleaded and nor is any other factor of such significance so as to change my decision.

## **The compliance period**

27. When the notice was issued on the 14 May 2014 the compliance periods for the various elements were set out as a schedule of different dates for completion. The appeal put the situation on hold and so I shall vary the notice by deleting the whole of section 6 (TIME FOR COMPLIANCE) and the Schedule therein and substituting the same periods which will run from the date of this decision. I have referred to each element of the unauthorised works and have set out a required timescale.

## **Formal Decision**

28. I direct that the notice be varied by adding the figure and words in brackets as follows: '(6 *in Number*)' after the words '*satellite dishes*' in the first sentence to Part 5 of the notice (WHAT YOU ARE REQUIRED TO DO).

29. I direct that the Listed Building Enforcement notice be varied by deleting the whole of section 6 (TIME FOR COMPLIANCE) in its entirety (including the whole of the schedule) and by substituting therefor the following new section 6:

### ***'6 TIME FOR COMPLIANCE***

- 1. Remove the 6 satellite dishes from the principal elevation within 6 months of the date of this decision.*
- 2. Replace the 27 Windows on Elevation A within 18 months of the date of this decision.*
- 3. Replace the 20 windows and one door on Elevations B, C and D within 2 years of the date of this decision.*
- 4. Replace 11 windows to Elevations E, F and G within 2 years and 9 months of the date of this decision.'*

30. The appeal is dismissed and the Listed Building Enforcement Notice is upheld as varied. Listed Building consent is refused for the works carried out in contravention of the Planning (Listed Building and Conservation Areas) Act 1990.

*Anthony J Wharton*

Inspector