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# Appeal Decision

Site visit made on 5 December 2016

**by W Fabian BA Hons Dip Arch RIBA IHBC**

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

**Decision date: 26 January 2017**

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**Appeal Ref: APP/D2510/W/16/3159513**

**Newton Hall, Church Lane, North Ormsby, Lincolnshire LN11 0TJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs R Cassen against the decision of East Lindsey District Council.
  - The application Ref N/130/02411/15, dated 9 December 2015, was refused by notice dated 9 March 2016.
  - The development proposed is 1. Proposed coal & bin storage together with stone wall. 2. Change of use of land to extend the domestic curtilage. 3. Proposed conservatory. 4. Proposed timber framed structure within the garden grounds.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue in this appeal is whether the proposals would preserve the setting of the listed building.

## Background

3. The former Church of St Helen's, which is listed Grade II, has been converted for residential use<sup>1</sup>, now known as Newton Hall. A tomb enclosure is identified in the same listing description as a railed grave enclosure, with an inscribed urn pedestal tomb.
4. This pretty former church was built in 1848 by S. S. Teulon, in the Early English style, of squared stone rubble with dressed stone details and a green slate roof. The numerous attractive features include: three trefoil head paired lancet windows on each south and north side and similar single lancets flanking the west door porch, which is set between stepped buttresses; a pointed doorway with a moulded hood and label stops at the east end of the south side; and two and three-light west and east windows with geometric tracery and moulded hoods. There is a gabled bellcote at the west end.
5. There is a separately listed cross base within the church grounds, also Grade II, described as dating from the 14<sup>th</sup> Century, with a square base and short section of chamfered shaft. According to Historic England the existence of this (as well as reference to medieval fabric in the listing description<sup>2</sup>) indicates that

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<sup>1</sup> Planning permission for the residential change of use was granted to the Church Commissioners in March 1982, appellants' appendix document D13

<sup>2</sup> The appellants refute that there is any mediaeval fabric in the building, appendix D9 and D10

the converted church, with the graveyard, is on the site of the medieval church and so also contributes to the significance of the medieval settlement, which is part of the extensive site of the former Ormsby Priory. This lies in the stream valley on lower ground a little way to the southwest of the appeal building. It is a designated scheduled ancient monument (SAM), described as '*Site of Gilbertine priory and post Dissolution house, moats, 18<sup>th</sup> century garden, medieval settlement and cultivation remains*'. As such the listed former church building and its surrounding curtilage fall within the setting of the SAM, and any harm to the listed building or its setting would also by definition harm the setting of the SAM.

6. At the time of listing in 1967 the church had already been closed. The conversion to a dwelling was carried out in the late 1980s following its de-consecration and sale to the appellant. This has included work within the graveyard and grounds of the converted church to form an elaborate domestic garden, which has been ongoing since then.

### **Reasons**

7. This appeal relates to proposals that have already been carried out within the grounds of the converted church. Works are underway to form the stone wall and coal and bin storage, which are not yet complete. The timber structure and conservatory are in place.
8. Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
9. The listed building is a heritage asset of nationally designated importance. At paragraph 131 the Government's National Planning Policy Framework requires that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building or scheduled ancient monument should be exceptional. Paragraph 134 confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
10. Saved policy C2 of the East Lindsey Local Plan Alteration, 1999, (LP) seeks, amongst other things, to protect the setting of listed buildings. This accords with the Framework.
11. In this appeal the crux of the matter is the effect the proposals that have already been carried out, or are underway close to it, have had on the setting of the listed building (the converted church).

### **Setting of the listed building**

12. Historic England in *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* confirms that the setting of a historic

- asset will include, but generally be more extensive than, its curtilage. The Framework Glossary confirms that setting is the surroundings in which a heritage asset is experienced.
13. The landscape around this part of the Lincolnshire is gently rolling and the appeal site is approached uphill on a bending lane that leads past farm buildings and terraced workers' dwellings. The lane bends around the former church and forks; one branch loops back to the south leading to the Manor on land a little higher than it. The other branch drops down to a dead end at farmstead dwellings close to the west of the listed building. The converted church thus lies on a small local highpoint, above most of the surrounding buildings.
  14. A copy of the original architect's drawing<sup>3</sup> envisaging it from the northwest shows it set on a grassy knoll, with trees behind. There is now a small area of woodland enclosing it on the lower ground around the west and north sides. Along the lane to the south is a curving line of impressive mature trees that are the subject of the North Ormsby No 1 Tree Preservation Order, 1991. Given the age of these trees they may pre-date the church and could be the ones shown on the drawing. The ground around the trees banks up sharply from the side of the lane and is retained by diagonally dry stacked bricks.
  15. In the approach along Church Lane from the northeast, the church building is also substantially screened by a fringe of woodland type planting, such that the boundary of its grounds from this direction are overgrown and not well visually defined.
  16. Overall, the former church is not readily seen within the surrounding landscape or from the nearby lanes. In considering the effect of the proposals on the setting of the listed building, I take this to be its more immediate setting, within the grounds of the former church. The 1888 Ordnance Survey map<sup>4</sup> shows a boundary around the church that seems to correlate to that shown on the submitted block plan.
  17. This is the land enclosed to the north and west by small overgrown wooded areas on lower ground and to the east and south by the lane, maturing but more recent tree planting at the lane-side east of the listed building and the bank and the protected line of mature trees, which provide an intimate enclosure along the south boundary. Although the church can only be glimpsed through all the surrounding vegetation, Historic England's advice is that setting does not depend on public rights or ability to access it.
  18. Within these boundaries the building is now surrounded by a large mature domestic garden with extensive earth embankments and hard landscape structures in a formal rectilinear layout. These partly enclose the converted church and create a sequence of enclosed gravelled 'garden rooms' each side of the original path through the grounds at its south side, as shown on the 1888 map.
  19. The enclosures are partly formed by a high embankment, which runs along the south boundary and includes the line of mature trees, where the lane is at a higher level than the building. It is topped by a walkway, with a trellis balustrade almost up to the level of the single storey eaves of the converted

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<sup>3</sup> Appellants' appendix D4

<sup>4</sup> Appellants' appendix D17

church, and is reached by a staircase from the garden. There are masonry walls at right angles to it, both stone and rendered, with trellis infill covered extensively by voluminous climbing plants. There is also an elevated walkway above the wall from the embankment towards the south west corner of the listed building. The balustrades to the walkways are embellished by several replica urns and heron sculptures.

20. At the west entrance to the converted church there is a terrace enclosed by a trellised structure that includes a timber pointed archway mirroring the arched church doorway and beyond this is a sunken area with a large rectangular pool and a store beneath the terrace. At the north side are further embankments with extensive raised paved areas, planting and paths, with low retaining walls topped by feature urns.
21. Just within the line of trees at the south east end near the access from the lane, is a small area with a few stone chest tombs partly enclosed by low retaining walls.
22. The appellants' submissions refer to previous 'threatened enforcement action' in respect of some of the works that have been undertaken to create embankments; however the Council has provided no evidence or comment on this matter. From the submissions there is little to show definitively whether or not these garden structures and enclosures are authorised or not. For the purposes of this appeal I shall reach my assessment of the effect of the appeal proposals on the setting of the listed building on the basis of its current domestic garden surroundings.
23. The proposals continue the ongoing intense personal physical endeavours by the appellants, over the course of some thirty years or so, to create the now mature domestic garden at Newton Hall. They have drawn on the references to 13<sup>th</sup> Century design in the listed building and seek to emulate the Renaissance 'Italianate' gardens at the Villa Gamberaia near Florence, with the aim of ameliorating the effects of climate change in the local micro-climate.

### **1 & 2 Coal and bin storage, stone wall, and change of use of land**

24. The description for the original 1982 planning permission for residential change of use<sup>5</sup> includes 'alterations to the vehicular and pedestrian gateway'. This permission includes a condition requiring full details of any proposed changes to be submitted for further approval. A further planning permission<sup>6</sup> granted in 1986 relates to conversion of the church to a dwelling and makes no reference to the vehicular and pedestrian gateway. None of the approved drawings for either of these permissions has been made available to me and so there is nothing to show what detail if any was approved at that time. As such I shall consider the proposed stone wall and stores in terms of the submitted details and the structures now built on site.
25. The proposal drawing shows low walls (constructed of 'breeze' block rendered and painted) topped by timber trellis set between stone piers, and two gateways, one vehicular, one pedestrian, each fitted with a pair of wrought iron gates. Enclosures for coal and bin storage are shown built-in behind the wall at each side of the pedestrian gateway, which is shown aligned across (but slightly off-centre from) the east end of the church. The proposed vehicular

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<sup>5</sup> Appellants' appendix D13

<sup>6</sup> Appellants' appendix D14

- gate and adjoining stretch of wall is shown cranked at an angle to the pedestrian gate, cutting diagonally across the original line of the pathway through the former church grounds, with the gate out of line with the path. This whole assembly is substantially complete, with work still ongoing.
26. The position of the gates, walls and stores seem to be roughly as shown on the submitted drawings, although it seems to me that the pedestrian gateway and coal store is in fact set at a slight angle to the listed building. Further, they all differ from the drawing in several respects in terms of their detail design, extent and execution.
  27. There is an additional length of low wall that continues from the southwest pier of the vehicular gateway, which is not shown on the drawing. This extends towards the area of box tombs referred to above. It is still under construction, and was partially covered at my visit, but it incorporates a grave stone at the end away from the gate. In addition, there is a further section of low retaining wall in place opposite the proposed wall and gates, further towards the lane, on land possibly not within the grounds of the building and this too is not part of the proposal as submitted.
  28. Turning to the stone wall and stores as built, these appear to be a mix of rendered blockwork, as described, with sections of salvaged mixed length thin coursed stones and some larger quoin stones at corner returns. The render is a dark brown-purple hue. Contrary to the drawings, the intermediate pier at the change of angle is lower than the piers each side of each gateway and all are topped by salvaged stone copings. The vehicular gate piers have decorative courses of alternating black and white stone roundels.
  29. The coal store is not of trellis panels set between the stone piers as shown, rather the piers are enclosed and topped by a substantial black stained timber structure with an elaborate dentilled eaves cornice detail and overhanging flat roof. This robust joinery is not in itself at odds with the listed building, and it continues the theme of trellis panels elsewhere within the garden, but the drawing does not show the coal store as built and this causes me to doubt both the detail intended at the other side of the gate and the final effect of the whole proposal.
  30. The bin store enclosure at the other side of the pedestrian gateway is much less complete and at my visit was partially screened by a large field gate and timber boards leaning against it to retain a large chaotic pile of salvaged timber within it that effectively hid the other side. At present the stone gate pier seems to be complete, with a stone coping at a similar height overall to the eaves of the timber structure; this suggests that a similar joinery enclosure is not planned. The plain steel pedestrian gates with slim vertical bars are as shown on the drawings. These are rather utilitarian and somewhat out of character with the adjacent joinery.
  31. The lack of coherent consistent detail between the proposal drawing and the structures that are in the process of construction provides little confidence or certainty as to the end intention. Were this part of the appeal allowed, there would be a lack of clarity as to what would be authorised.
  32. Some elements of the stone wall and stores as built are whimsical and attractive in parts, but seen together as a whole the effect is rather ad-hoc and jarring. The quality of execution is patchy; some of the stonework has over-

thick mortar beds and some vertical joints align above each other. The rectangular plan form of the piers and the straight cut ends to the pier copings, combined with the cranked wall line across the former orthogonal layout of the path into the church grounds, creates a confused appearance that detracts from rather than enhances the pleasing architecture of the listed building and bears little authentic relationship to its architecture. The constructions now in place harm its setting to a considerable degree at this key entrance point.

33. Very little information has been submitted to identify the nature of any former enclosure or gateway into the church grounds or the precise position of the historic boundary in relation to the wall and gateway structures proposed.
34. The structures now built at the east end of the appeal site seem to incorporate some of the small area of land formerly outside the original boundary of the listed building, between it and the lane, and so the application is also in respect of the change of use of the land for garden use/domestic curtilage.
35. The Government's Planning Practice Guidance advises that part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. As set out above, historic maps show the broad location of the access to the historic churchyard from the lane and this does not appear to have been materially moved. However, the alignment of the new main gate into the garden at an angle across the original graveyard pathway and the other new walls and gateway introduced here have obscured any trace of the former entrance arrangement.
36. Without appropriate expert analysis of the potential impact of the proposals on the original layout of the graveyard boundary and access, as required where necessary by the Framework at paragraph 128, I am unable to assess the effect of the proposal in this regard. In the absence of evidence to show otherwise I find that the change of use of land and the erosion of the ability to understand the historic boundary and access to the listed building here has contributed to the considerable harm identified above to its setting.

### **3 & 4 Conservatory and timber framed structure**

37. At the west side of the building, a timber archway structure on stone pillars, supporting plants, and a uPVC conservatory on a raised area with curved stone steps up to it from beneath the archway, have been erected. They are largely as shown on the submitted drawing.
38. The conservatory that has been installed is a free-standing 'off-the-peg' domestic type, framed in white uPVC, with top-light windows. It is set on a stone plinth wall. The north end, away from the church is straight and the south end is apsidal, which the appellants consider in keeping with church architecture; while many churches have apsidal bay ends, this particular one does not. The appellants suggest the roof form resembles a crusader's tent. However, seen from the side, in views along the north side of the listed building from east or west, the form is segmental at one end with a very short ridge (topped by decorative finials) and a long shallow hip at the other; it is lopsided and a little ungainly.
39. It is aligned at right angles to the northwest corner of the former church and set a little apart from it on raised crazy paving with intervening planting and curving areas of paving or gravel that step and ramp down to the level of the

listed building. The eaves of the conservatory are above those of the converted church, such that seen alongside the listed building from within the grounds, it is prominent and wholly out of character with it in terms of its colour, materials and form. The close juxtaposition of the conservatory and the converted church is surprising and uncomfortable. The factory made conservatory is not of a quality commensurate with the listed building and it has caused moderate harm to its setting.

40. The timber structure is closely linked to the conservatory and provides a gateway to it that leads from the paved 'room' at the west end of the former church building either through a side gate or via the pointed timber trellis archway described above. The structure is formed by two pairs of 45 degree pitched factory-made timber trusses, with exposed galvanised gang-nail plates. The appellants have referred to the timber trusses within the listed building, but I have little doubt that they are not like the factory assembled ones installed here, which are of a type used routinely in most modern domestic buildings, and are rarely seen as an external feature.
41. While the appellants intended to create a trinity of pointed arches inspired by Pugin, as illustrated at their P15, this arch and the two others in the same line is each very different from the neighbouring one, with the one subject to this appeal by far the largest and most eye-catching.
42. In this arch structure each pair of trusses is linked together by herring-bone cross struts and the pairs are set around three metres apart, linked by timber purlins placed on the flat, a ridge plate with a finial and a weather vane, and diagonal braces. They have been installed on masonry piers built with stone quoins and knapped flint walling, which at one side also enclose the curved stone stairs up to the conservatory. The climbing plants that the structure supports are well established and lush, even during my early winter visit, but this does not disguise the inherent inconsistency of quality in design and materials between the fine listed building and this large shed-like structure, at close quarters to it.
43. Seen from the west end of the garden alongside the former church, the contrast is stark. The pitch of the structure is shallower than the roof of the listed building and the relatively large height and width of the structure is dominant beside it. It is seen here, alongside the conservatory, so that together they are an alien intrusion that has caused noticeable harm to the setting of the listed building.

## **Conclusion**

44. To sum up, each of the elements proposed in this appeal has had a harmful effect on the setting of the listed building. Taken together, the overall harm of the proposals to the setting of the designated heritage asset is considerable and has harmed its significance, but the harm is not so great as to amount to the high test that is substantial harm. Nevertheless, considerable importance and weight should be given to any harm. Less than substantial harm to the significance of a heritage asset should not be allowed unless the public benefits outweigh it.
45. The public benefit of securing the optimal use of the listed building has already been secured through its residential conversion. The other benefits put forward, of conserving energy by providing a naturally lit and warm

environment for daytime use, better access to mobile phone and television signals, benefits to health, and the provision of storage for fuel and refuse, are for the appellants and their household alone and are not public ones. In any event there is little to show that each of these objectives could not be met in a less harmful way.

46. The appellants have referred to the effect on the setting of the listed building of several nearby developments. The planning histories of these are not available to me. Moreover, while some of them are close to Church Lane none has such a direct effect on the setting of the listed building as the proposals subject to this appeal.
47. Taken overall, for the reasons set out above and taking into account all other matters raised, I conclude that the proposals, which have been either wholly or partly carried out, are harmful and have failed to preserve the setting of the listed building. Protecting and enhancing the historic environment is an important component of achieving sustainable development. The proposals are contrary to the development plan as a whole and to the aims of the Framework as set out above.
48. The appeal should be dismissed.

*Wenda Fabian*

Inspector