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## Appeal Decisions

Site visit made on 24 May 2012

**by Stephen Brown MA(Cantab) DipArch RIBA**

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

**Decision date: 19 July 2012**

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### **Appeal Ref: APP/G2815/F/12/2168063**

#### **Building approximately 100 metres south of Drayton House, Lowick NN14 3BB, edged in red on the plan attached to the notice.**

- 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 Mr C Stopford-Sackville against a listed building enforcement notice issued by East Northants District Council.
- The Council's reference is EN/11/00251/LBE.
- The notice was issued on 29 November 2011.
- The contravention of listed building control alleged in the notice is the replacement of the building's long straw thatch roof covering with water reed.
- The requirements of the notice are to remove the existing reed covering from the roof of the building and re-cover with long straw matching the detailing which existed prior to the commencement of works, as is shown in the photograph attached to the notice. The roof shall have a plain, flush wrap-over ridge and a single horizontal ligger above the eaves
- The period for compliance with the requirements is six months.
- The appeal is made on the grounds set out in section 39(1)(c), (e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

**Summary of decision: the appeal is dismissed and the listed building enforcement notice is upheld.**

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### **Appeal Ref: APP/G2815/E/11/2163985**

#### **Drayton House, Lowick, Kettering NN14 3BB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the grant of listed building consent subject to conditions.
- The appeal is made by Mr C Stopford-Sackville against the decision of East Northants District Council.
- Listed building consent ref. EN/10/01490/LBC was granted on 7 June 2011 subject to conditions.
- The works proposed are conversion and demolition works to provide two dwellings for Estate workers. Works to include modifications to existing openings, new chimney, internal alterations, works to roof and demolition of a wood storage building.
- The condition in dispute is no. 10 which state that:

In accordance with submitted details, the existing short straw roof on The Butchers Shop shall be replaced with long straw and full details of the said replacement thatching works, including timescales, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development hereby permitted. The thatching works shall thereafter be carried out in accordance with the details so approved, unless otherwise agreed in writing by Local Planning Authority.
- The reason given for imposing the condition is:

To achieve a satisfactory elevational appearance for the development and in order to maintain the character and appearance of the property as a building of acknowledged architectural and historic interest.

**Summary of decision: the appeal is dismissed.**

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**Appeal Ref: APP/G2815/A/11/2163959**  
**Drayton House, Lowick, Kettering NN14 3BB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr C Stopford-Sackville against the decision of East Northants District Council.
- The application ref. EN/10/01489/FUL, was approved on 7 June 2011 and planning permission was granted subject to conditions.
- The development permitted is conversion and demolition works to provide two dwellings for estate workers, with associated landscaping and car parking.
- The condition in dispute is no. 23 which states that:

In accordance with submitted details, the existing short straw roof on The Butchers Shop shall be replaced with long straw and full details of the said replacement thatching works, including timescales, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development hereby permitted. The thatching works shall thereafter be carried out in accordance with the details so approved, unless otherwise agreed in writing by Local Planning Authority.
- The reason given for imposing the condition is:

To achieve a satisfactory elevational appearance for the development and in order to maintain the character and appearance of the property as a building of acknowledged architectural and historic interest.

**Summary of decision: the appeal is dismissed.**

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**Preliminary matters**

1. The appeal building is known by the appellant, and on the Drayton Estate generally, as 'The Butchers Shop' and that is the name I have used for the purpose of these decisions. It is quite distinct from Drayton House - the principal house on the estate - although that is the name given in the listed building application and planning application. While the enforcement notice gives a different address from either application - as recorded in the headings above - all relate to the self-same building.
2. The Butchers Shop is a Grade II listed building. It stands in proximity to Drayton House - a Grade I listed building - and the Dovecote, also Grade II listed. I have therefore paid special regard to the desirability of preserving the special interest and settings of the listed buildings, as required by Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. Although the appellant originally argued that the Butchers Shop was listed only by virtue of being within the curtilage of other listed buildings, it is now accepted - following the English Heritage letter of 19 January 2009 - that it is listed in its own right.

**Background**

4. The Butchers Shop is at the western end of a linear range of buildings some 58 metres long that stands about 100 metres to the south and east of the very splendid Drayton House. The range forms the southern side of a loosely arranged courtyard comprising both historic and modern buildings of predominantly agricultural character. The buildings have coursed limestone walls. The appeal building and the Workshop - which stands towards the eastern end of the range - have thatched roofs, the remainder have red clay pantiles.

5. The scheme granted listed building consent and planning permission is to convert the range into two 2-bedroom dwellings, each occupying approximately half of the entire building. The approved drawings show that it was intended that the roofs of both the Butchers Shop and the Workshop should be covered in long-straw thatch.
6. Parts of the range are in various stages of dereliction, and repairs to the Butchers Shop have included replacement of the roof structure and extensive masonry repairs. The Workshop has now been re-thatched in long straw, but the Butchers Shop roof has been covered in reed thatch. I understand that the repair and thatching works were done at some time in 2008, before the listed building and planning applications were submitted.

### **The listed building enforcement notice appeal on ground (c)**

7. This ground is that the matters alleged do not constitute a contravention of Section 9(1) or 9(2) of the Act. The appellant argues that this roof had been thatched in a mixture of straw and reed, with an overlay of reed added some 50 years ago, and that the character of the building has not been affected by the recent works.
8. Section 9(1) of the Act<sup>1</sup> says that if a person contravenes Section 7 he shall be guilty of an offence. Section 7 says that no person shall execute or cause to be executed any works to a listed building, including those for its alteration, in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. I note here that the question is solely whether the works affect that character, and there is no distinction as to whether this would be to the good or to the bad.
9. The Council say that the photograph attached to the listed building enforcement notice is of the original cottage. It is not dated, and not of high quality, but is clearly of considerable age. It shows a thatched roof with a flush ridge, and wrapped or rolled verges, and has a distinctly 'shaggy' appearance - all characteristics of long straw roofs. The new thatched roof is of decidedly different appearance, with its carefully finished surface - the reed ends having probably been tapped into place using a leggett - and the precisely cut eaves and verges. I consider this has significantly changed the appearance of the building, and affected its character to a marked degree. The works are not authorised, and there has therefore been a contravention of Section 9(1) of the Act.
10. Section 9(2) says that an offence will result from the execution of any works carried out under a listed building consent that fail to comply with any condition attached to the consent. Although the works in this case clearly do not comply with Condition 10 of the 2011 consent, they were carried out before that application was made, and cannot be considered to have been carried out under the subsequent consent, or be subject to its conditions. Nevertheless, that does not change the situation in relation to Section 9(1). The appeal on ground (c) therefore fails.

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<sup>1</sup> The Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

### **The listed building enforcement notice appeal on ground (e)**

11. This ground is that listed building consent ought to be granted for the unauthorised works. This I mainly on the basis that the new roof covering is indistinguishable from the long straw roof on the Workshop, and that reed is in use locally as a thatching material.
12. I consider the main issue in this case to be the effect of the unauthorised works on the special interest of the Butchers Shop and on the setting of nearby listed buildings.
13. The Council put forward Development plan policy from the North Northamptonshire Core Spatial Strategy of 2008 and the Rural North, Oundle and Thrapston Plan (RNOTP) of 2011. Core Strategy Policy 13 includes aims to conserve and enhance designated built environmental assets amongst other things. RNOTP Policy 23 sets out a general approach to adaptation or re-use of rural buildings, and includes aims to conserve the character of any buildings of historic or visual interest. The Courts have recognised that there is no statutory requirement to have regard to the provisions of the development plan in listed building cases. However, this policy expresses the Council's stance on such matters, and I shall take it as a material consideration in determination of the appeal.
14. As noted above, the water reed thatch is markedly different in appearance from long-straw thatch. It has a uniform smooth surface, and the eaves and verges are precisely cut. The thickness of the reed thatch is considerable less than might be expected for a long straw thatched roof, and this is particularly apparent at the verges. The reed thatch contrasts significantly with long straw thatch which has a somewhat 'shaggy' surface texture, and less precise forms at the eaves and verges – the latter frequently being rolled, giving the verges a rounded form. Looking at the Workshop and the Butchers Shop such differences were readily discernible.
15. Historically, thatch in this area is predominantly of long straw. I saw in the nearby village that this remains largely the case, although I accept there are examples of reed thatch. Nevertheless, I consider the use of reed thatch introduces an alien and uncharacteristic element that is of significant harm to the appearance and to the architectural and historic interest of the listed building. Furthermore, its presence in such close proximity to several other listed buildings is harmful to their setting.
16. I conclude on the main issue that the unauthorised works cause significant harm to the special interest of the Butchers Shop and to the setting of nearby listed buildings. The appeal on ground (e) therefore fails.

### **The listed building enforcement notice appeal on ground (i)**

17. This ground is 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. It is argued that the roofing material on the Butchers Shop had been a mixture of straw and reed for the previous 50 years, and has had numerous patch repairs in that time.
18. The photograph attached to the notice has the appearance of a long straw roof in terms of its detailing and surface texture. While it may have had much repair work, and the material have had reed content it does not have the

character of a long straw roof. I consider a new long straw roof would effectively restore that character. The appeal on ground (i) therefore fails.

### **The appeals against conditions**

19. From my inspection of the appeal site and its surroundings, and from the written representations made I consider the main issue in both appeals to be whether the conditions in question are necessary in order to protect the appearance, character and special interest of the listed building.
20. Removal of the disputed conditions would have the effect of reducing the Council's control over the manner in which the roof covering would be carried out. However, I note that the approved drawings would still specify that the roof should be covered in long straw. In these circumstances a change from the proposed long straw to reed would still be unauthorised despite removal of the conditions, and it appears to me that a new consent and permission would be required if the appellant intended to make or retain such a change. Nevertheless, the conditions reasonably include requirements for the submission of details of the thatch, and for the works to be carried out accordingly. Little detail is shown on the drawings, and I consider the conditions remain necessary in order to ensure a proper appearance, and to protect listed building interests.
21. I conclude that the conditions in question are necessary in order to protect the appearance, character and special interest of the listed building. I consider the proposed removal of conditions would not accord with the aims of Core Strategy Policy 13, or with those of RNOTP Policy 23.

### **Conclusions**

22. I have considered all other matters before me, including the argument that the cost of the works required by the notice would be prohibitive, and that the money would be better spent on refurbishment of the Butchers Shop and adjacent buildings. However, the appellant has effectively incurred this cost himself by carrying out unauthorised works that harm listed building interests. The argument of excessive expense does not justify retention of the unauthorised works.
23. Although the appellant claims that the works, including the new roof structure, were carried out to protect the building from collapse there is no substantial evidence put forward to defend this. On the evidence before me, had a listed building enforcement appeal been made on ground (d), it would have failed.
24. I find neither these nor any other matters sufficient to outweigh the considerations that have led me to my decisions, and I consider the appeals should not succeed. I intend to uphold the listed building enforcement notice, and to refuse the two appeals against conditions.

### **Formal decisions**

#### **Appeal Ref: APP/G2815/F/12/2168063**

25. I dismiss the appeal and the listed building enforcement notice is upheld. I 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.

**Appeal Refs: APP/G2815/E/11/2163985 & APP/G2815/A/11/2163959**

26. I dismiss both appeals.

*Stephen Brown*

INSPECTOR

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