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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 8/11/21

gan Declan K Beggan BSc (Hons) MSc  
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion  
Cymru

Dyddiad: 03/02/2022

## Appeal Decision

Site visit made on 8/11/21

by Declan K Beggan BSc (Hons) MSc  
DipTP DipMan MRTPI

an Inspector appointed by the Welsh  
Ministers

Date: 03/02/2022

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**Appeal Ref: APP/L6805/F/21/3279597**

**Site address: Building known as the stable range at Henblas Country Park,  
Bodorgan, Anglesey, LL62 5DL**

**The Welsh Ministers have transferred the authority to decide this appeal to me  
as the appointed Inspector.**

- 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 Act').
  - The appeal is made by Mr M J Barrett against a listed building enforcement notice issued by Isle of Anglesey County Council.
  - The Council's reference is ENF/2020/13.
  - The notice was issued on 9 June 2021.
  - The contravention of listed building control alleged in the notice is without listed building consent the installation of uPVC windows and doors throughout the building.
  - The requirements of the notice are 'to replace all existing uPVC windows and door units in the building with timber windows and doors in accordance with that approved under listed building consent reference 36C50V/LB and dated 26 March 2018'.
  - The period for compliance with the requirements is 12 calendar months from the date the notice takes effect.
  - The appeal is made on the grounds (c), (e), (j), and (h) as set out in section 39 (1) of Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Act.
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### Decision

1. The appeal under all grounds is dismissed and the EN is upheld, and listed building consent is refused.

### Procedural Matters

2. I note the EN is directed at windows and doors throughout the appeal building and that the requirements of the EN refer to their replacement as per those permitted under listed building consent Ref. 36C50V/LB. Whilst the bulk of the uPVC windows and doors

appear to be in the approximate location as identified on the permitted drawings, however I noted that elements of the scheme do not appear to relate to that consented e.g. a new door to the rear elevation of the dining room. In consideration of this appeal I have only considered those uPVC windows and doors identified as per the listed building consent – any others as fitted, are outside this appeal process<sup>1</sup>.

## Reasons

### *Ground (c) appeal*

3. An appeal on ground (c) is that the matters referred to in the EN do not constitute a contravention of the Act. To succeed on this ground of appeal it must be successfully argued that the works carried out have not altered the character of the listed building and thus there has not been a contravention of section 7 of the Act. Section 7 of the Act states that ‘Subject to the following provisions of this Act, 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 any manner which would affect its character as a building of special or architectural or historic interest unless the works are *authorised* (my emphasis)’. Section 8 sets out when works to a listed building are authorised.
4. In a ground (c) appeal the merits of the works are not considered. The issue at hand relates solely to whether or not the character of a listed building has been changed by the works carried out; this is irrespective of whether or not such works have been harmful to the listed building. The full merits are considered below under ground (e).
5. It must be conclusively shown, therefore, that the works have not altered the character of the building and thus they do not constitute a contravention of the Act, or that a LBC is in place for the works. The first issue to be considered, therefore, is whether or not LBC is required for the installation of the replacement uPVC windows and doors; clearly in this case, the replacement of timber windows and doors required such consent.
6. The second issue is whether there is any consent in place that has authorised such works. The appellant highlights that both planning permission<sup>2</sup> and listed building consent were granted conditionally. The appellant refers to condition 8 of the planning permission which states that the development be carried out in accordance with a number of listed plans and that on those plans there is no reference to materials to be used for the windows and doors and no materials are referred to in the specified conditions. As a result it is argued there has not been a contravention of planning control as there was no clarity in the decision notice (s) regarding materials to be used.
7. The Council argue that the EN is not directed towards the planning permission related to the site but to the listed building consent as referred to in the EN. In this case, irrespective of the planning permission, the listed building consent is the determining and appropriate application as governed by the relevant legislation, and that required the proposed works be carried out in accordance with a number of listed plans<sup>3</sup>.
8. Whilst I appreciate those plans did not specify that door and window materials are to be in timber, nonetheless, I would concur with the Council, that the ‘sectional drawings’ shown on the plans are very much indicative construction details, including head and cills, that are typically associated with timber doors/windows as opposed to generally more complicated form associated with uPVC.

<sup>1</sup> Both parties will be aware that there is no time limit on the Council, should they choose, on taking Council enforcement action in regards to matters affecting a listed building.

<sup>2</sup> The appellant refers to condition of planning permission Ref. 36C50U/ECON which the Council point out is linked to the listed building consent referred to in the EN.

<sup>3</sup> The appellant submitted those plans with his appeal submission.

9. In addition, it is highly significant, that based on the permitted drawings there appears to be a substantial difference between multiple door/window openings proposed under the listed building consent and those actually fitted, such as door openings replaced with glazed openings, and fenestration details that are widely at odds in general appearance to those permitted.
10. It's also worth noting that the combined listed building/planning application form related to the site stated the existing doors and windows were timber and those proposed were to be timber; the Heritage Impact Assessment that accompanied the listed building application referred to the fitting of new timber windows and doors throughout the existing openings. These details also point towards the use of timber doors and windows, and therefore it was not unreasonable for the Council to take the view that these would be used and thereafter replicated in the details referred to in the permitted drawings.
11. Based on my observations on site and on the totality of the evidence as presented, it is clear to me that all aspects of the works referred to in the EN have affected the listed building as one of special architectural and historic interest. The fitting of new doors and windows have an appearance that varies significantly from those that previously existed and those permitted under the listed building consent; this has clearly affected the character of the building.
12. The permitted LBC does not authorise these works; it follows, therefore, that a contravention of the Act has occurred. The appeal fails on ground (c).

*Ground (e) appeal*

13. The appeal on ground (e), is that listed building consent should be granted for the works referred to in the EN. I have already concluded above on ground (c) that the works carried out have affected the character of the listed building. The main issue is the effect of those works, as fitted, have had on the character and special interest of the listed building.
14. The appeal property is a grade II listed mid-19<sup>th</sup> century single storey range of stables/cart sheds built to a splayed 'U' shape. The Cadw listing description refers to it being made up of local rubble masonry with limestone dressings, doorways with an elliptical head of limestone voussoirs, the central range each having doorways at each end with each arm having 6 doorways evenly spaced, and all under a slate roof. The description refers to the architectural and historic interest of the building which is described, notwithstanding alterations to detail, as a planned farmstead, illustrating the renewed investment in agriculture, and attention to planning associated with the larger estates during the 19<sup>th</sup> century.
15. The architectural features identified above and its character is an example of a relatively well preserved range of rural outbuildings that contribute to the special architectural and historic interest of the building and its significance as a heritage asset.
16. Section 16(2) of the Act require the decision-maker, in considering whether to grant listed building consent, for any works, or development, affecting a listed building, or its setting, 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; Planning Policy Wales Edition 11 (PPW) and Technical Advice Note 24, 'The Historic Environment' (TAN 24), reiterate this stance.
17. The appellant argues the fitted double glazed windows and doors do not harm the character of the listed building; I disagree. Despite the appellant's assertions that the windows are in line with the previous permitted consent, and setting aside his position on the use of double glazing, there is no reference in the permitted drawings to the use of

uPVC materials, indeed, and as referred to previously, the submitted sectional profiles to my mind are commonly associated with a timber framed door or window; other details associated with the listed building application point firmly towards the use of timber windows and doors in the consented scheme.

18. Irrespective of their colour, the fitted uPVC framing to the windows and doors has a flat engineered and modern appearance which is likely to have been at odds with the historic windows/doors, which based on the application details, i.e. use of historical timber/partly evidenced by historic photographs, would likely have had subtle irregularity and variation in their finish. The historic timber windows and doors in this instance would have been a contributory and important architectural feature of an agricultural building. The setting back or recessing of the windows/doors does little to ameliorate the prominent impact of the features as fitted.
19. Significantly, and as previously identified, there is a substantial difference between multiple door/window openings proposed under the listed building consent and those actually fitted, such as door openings replaced with glazed openings, or fenestration details that are widely at odds in general appearance to those permitted such as an absence of glazing bars and instead fully glazed opening, and a collection of windows and doors that have a distinctly modern appearance in terms of form/design.
20. As identified by the Council and historic photographs, features such as the historic doors and windows were dominant architectural details of a historic agricultural building and they are now completely absent. Such unauthorised changes significantly alter the character of the building and apart from the retention of stone ventilation slits, there is little to suggest that the works as carried out relate to a former agricultural building or reflect to any meaningful degree the historic vernacular form.
21. The appellant has suggested the fitting of new external timber doors that reflect those originally fitted, with the appellant describing the fitted uPVC windows and doors as then becoming 'internal fixtures', however this is not acceptable for a number of reasons. Firstly, the specific details have not been submitted to the appeal process, such details are necessary in order to ascertain the potential impact on the character of the listed building.
22. However more importantly, the unauthorised windows and doors that would still be retained would be visible in all likelihood for the bulk of the day whilst the building is in use, as people would need to access the building and also to allow natural light into the rooms, which would expose the modern 'internal' additions to full view; this is not acceptable for reasons as discussed above as it would not preserve the listed building.
23. The windows and doors as fitted therefore, are an unsympathetic addition to the property and detract from the existing historic character of the listed building, and fail to preserve the special architectural and historic interest of the property; this runs contrary to the Act. The works as carried out would also be contrary to policy PS 20 of the Anglesey and Gwynedd Joint Local Development Plan, PPW and TAN 24, which collectively seek to protect heritage assets. The appeal under ground (e) therefore fails.

#### *Ground (j) appeal*

24. The basis of an appeal on ground (j) is that steps required by the EN exceed what is necessary to remedy the breach of planning control. In this instance it is clear from the requirements of the EN that it is directed at remedying the breach of planning control, rather than any lesser steps where the purpose might be only to remedy the injury to amenity.

25. The requirements of the notice involve replacing all existing uPVC window and door units with timber windows and doors as per the approved listed building consent. The appellant argues that as the windows are recessed they are not overly visible and that a heritage green colour has been used which is appropriate, and if new external timber doors were to be fitted this would in effect result in the unauthorised works becoming internal features and therefore not unacceptably impact on the character of the building; however for the reasons previously given I have found this approach to be unacceptable and would it not remedy the breach of planning control.
26. Given that the requirements of the EN, in effect, go no further than requiring removal of the unauthorised uPVC windows and doors to the building and their replacement with the permitted scheme, it clearly cannot exceed what is necessary to fully remedy the breach of planning control and the consequent harm to the listed structure. The works required by the EN are therefore necessary and no lesser steps than those set out would achieve the purpose of remedying the breach of planning control.
27. The ground (j) appeal therefore fails.

*Ground (h) appeal*

28. The appeal on ground (h) in summary is that the time given to comply with the EN falls short of what should reasonably be allowed. The Council has given 12 months for compliance in terms of the works referred to in the 'Third Schedule' of the EN. As previously referred to, those requirements are to replace all uPVC windows and doors in the building with timber windows and doors in accordance with the previous listed building consent.
29. The appellant has argued for a period of several years to comply with the required works and has cited matters such as the cost of the actual works, availability of skilled trades' people, and the impact of covid-19 on a business that is only now recovering.
30. I appreciate the difficulties the appellant has highlighted, particularly those associated with covid-19, however, the works required by the EN should now be possible in light of the fact that most restrictions have been eased, and bearing in mind the 12 month compliance period, which I consider is a relatively long and generous timeframe. The appellant refers to difficulties in terms of the costs associated with the required works; be that as it may, however this is not a factor that is determinative in this appeal process or that carries any significant weight. In this case, I must balance the Council's reason for issuing the EN in the public interest against the burden placed on the appellant. The breach and the harm it causes should not be allowed to continue unduly, and therefore I am satisfied that the timeframe for compliance referred to in the EN is adequate to address the harm identified. The ground (h) appeal therefore fails.
31. Should the appellant encounter difficulties, such as appointing a properly skilled tradesperson within a reasonable timeframe to carry the works, then outside of this appeal process and exercising powers conferred by section 38 (5) (b) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council can at its discretion, extend the compliance period specified in the EN.

**Other Matters**

32. I note the third party support for the proposal, however this would not justify the works for the reasons previously stated.

## Overall Conclusions

33. Based on the foregoing, and having considered all matters raised, I conclude that the appeal under all grounds be dismissed and the EN be upheld, and listed building consent be refused.
34. In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives as required by section 8 of the Act.

*Declan K Beggan*

Inspector