

APPEAL STATEMENT

For
Certificate of lawfulness to a listed building

Repair Proposal
To

Newton Hall
Newton in Bowland
Clitheroe
Lancashire
BB7 2DY

Date: June 2017
Job ref: 5270

from concept to creation...



Applicant:

Mr M Bentley

Site address:

Newton Hall, Newton in Bowland, Clitheroe, Lancashire, BB7 3DY

Application Number - 3/2017/0045

Date of application – 18th January 2017

Site inspection date – 1st March 2017

Decision notice date – 1st March 2017

Issue of Decision Notice – 3rd March 2017

Application

Certificate of lawfulness of proposed works to a listed building.

The proposal consists of the following:

- Re-roof main house re-using existing slate, replace existing timber battens and renewal of lime torching where required. Existing bitumen hessian felt underlay to be replaced like for like.
- Like for like repairs to chimney stacks including leadwork, pots and flaunching.
- Re-point external boundary walls and re-bed stone copings.
- Repair / make good existing rainwater goods including testing falls, re-seating joints, replacing damaged and corroded brackets (like for like) and testing for asbestos containing materials (ACM's).
- Isolated like for like repair of cracking to render wall finish to the east gable end.
- Clean and re-lay existing paving to the rear patio.

Reason for refusal:

"The submitted Building Survey and proposals for the removal of cement pointing and render suggest that Newton Hall's character as a building of special architectural and historic interest will be affected by the proposed works".

Consideration against reason for refusal:Purpose of the application

Newton Hall was purchased by My Bentley and his family on 5th September 2016 following inspection by M Holden MRICS who provided the applicant with a detailed RICS Building Survey identifying a number of urgent repairs and advising that the owner seek further specialist advice about whether consent may be required.

On acquisition, Mr Bentley appointed SPA to draw up a scheme of alterations but was advised that the like for like repairs should be completed as soon as possible in order to protect the building's special interest, and not delayed during listed building consent discussions. The applicant therefore instructed SPA to prepare an application for a Certificate of Lawfulness in respect of the proposed like for like repair works to allow the works to go ahead with the confidence of the Local Planning Authority during the discussions for alteration.

The application and supporting information

A full and comprehensive set of information was submitted with the application which examines the building listing, historical context, proposed works, justification of the works and a summary. This information provides a substantial justification of lawfulness which describes why the repair works could be carried out under a Certificate of Lawfulness and do not require a full listed building consent application.

Reason for refusal of the application

In the reason for refusal, the Local Planning Authority claims that the RICS Building Survey submitted as evidence of disrepair suggests that Newton Hall's character would be affected by the proposed works. However, the Building Survey Report in fact advises that the owner approaches suitably qualified professionals for advice about planned repairs and suggests engaging with the Local Planning Authority about works which may require consent.

The Local Planning Authority's claim, in the reason for refusal, that the Surveyor's report suggests that the repair works could affect the building character does not follow policy; whether listed building consent is required is a matter for determination by the Local Planning Authority and not a matter for determination by professional advisers.

Principles of Public Interest

The Local Planning Authority, in refusing the application, has overlooked three principles of public interest:

1. That like for like repairs which conserve the building's special interest do not require listed building consent. For the Local Planning Authority to insist on a listed building consent application to carry out permitted repairs is contrary to the public interest because it both withdraws the owner's natural rights and places an unacceptable burden on listed building owners which is not envisaged in the Planning (Listed Building and Conservation Areas) Act 1990.
2. That in refusing a well-supported application by claiming insufficient information has been provided, the Local Planning Authority has overlooked the principle of proportionality. The level of information the Local Planning Authority can reasonably require in determining an application is explained in the NPPF at para 128.

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

3. The Local Planning Authority's decision is contrary to public policy because it prevents the timely repair of a building placing the building's special interest at risk. Public benefits in policy include reducing or removing risks to a heritage asset (NPPG para 20 18a-020-20140306).

Principles of Repair

The proposed repair to the render is to provide isolated repairs to the affected areas within a lime rendered wall replacing loose render with new lime based render to match (sampling is proposed to determine the exact mix). It is intended to provide an aesthetic like for like repair whilst enhancing the condition and longevity of the existing building through this repair. The house is listed Grade II*.

The repointing works relate to the external boundary walls and re-bedding of existing stone copings which have become loose or detached from the wall head. The existing condition of the wall is poor because patch repairs with cement mortar have not adhered and harm the performance of the wall. The proposal involves repointing using a traditional lime based mortar which matches the surviving substrates (sampling is proposed to determine the exact mix). Rebedding the coping stones is to be carried out as part of that repair process. The wall is listed Grade II.

Clarifications to application

Some items were highlighted in the officer's delegated report as being influential on the decision to refuse but which are not identified as reasons for refusal in the decision notice.

These can be clarified as follows:

- Re-roofing –slate will be re-used and should any new slates be required they will be obtained to match the existing in size, geology and dressing. There will be minimal impact on the structural timbers with the removal of the battens believed to be from the 1960's when a large refurbishment took place as is likely to be case for the rafters.
- Repair and partially re-build chimney stacks. This relates to the three extant chimney stacks. The sections re-building are fully extant but the stones need to be lifted and correctly re-bedded in position to repair the deformation.
- Re-pointing external boundary walls and re-bed stone copings. This refers to the introduction of lime mortar and removal of cement mortar as described above.
- Repair / make good rainwater goods, replacing damaged and corroded brackets – rainwater goods to be tested and checked throughout. Test for asbestos containing materials, and replace any damaged asbestos fittings with new similar non-asbestos containing materials.
- Repair of cracking to render wall finish to east gable elevation – isolated repair by tap-testing for detachment, and removing fully detached areas only. Patch re-render with appropriate lime based render finish to include inscribed detail.

- Cleaning and re-laying of paving to rear patio – noted by Local Planning Authority as not part of listing however no partial approval / indication given in the decision notice.

It is felt that these items have been significantly addressed in the Repair Proposal report submitted by SPA as part of the submission with sufficient justification of works illustrated for each item.

These repair proposals do not constitute alteration or demolition but the sensitive repair of the requested items. The reason for refusal relates to the cement pointing and render items and therefore it should either have been confirmed in the decision notice that all the other works are lawful, or further information requested pre-decision as described in NPPF para 193:

Local planning authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.

Procedural issues

At validation the Local Planning Authority undertook to determine the application in eight weeks but this was incorrect because the Local Planning Authority would normally be expected to determine such applications in six weeks.

The application was not given sufficient review by the Local Planning Authority: No dialogue was offered prior to determination by the Local Planning Authority to discuss the application, or the included items, or request any further required information, nor an opportunity for a split decision to be made.

The applicant, concerned by the lack of inspection or contact, instructed SPA to contact the Local Planning Authority on 27 February to enquire when the application would be dealt with. As noted in the supporting evidence email ref: RE: Newton Hall - Certificate of Lawfulness for Proposed Works to a Listed Building - Planning Ref: 3/2017/0045, the site was not visited by the Local Planning Authority officer until the intended date of determination.

The delegated report confirms that the inspection was undertaken on the same day that the Officer's report was drafted and the decision notice issued.

The applicant notes that the delegated report was issued two days later by email on the 3th March 2017 although it is dated 1st March 2017.

The decision notice was been issued under section 195 of the Town and Country Planning Act 1990 rather than section 26K of The Planning (Listed Buildings and Conservation Areas) Act 1990 Act. The applicant has taken further advice including correspondence with the Planning Inspectorate to confirm that this appeal could proceed in spite of the procedural errors in the notice.

Objections and consultations

We are unaware of any objections being raised against this application. The Local Planning Authority has not consulted with Historic England prior to taking the decision.