

Parish: LONG MELFORD

Location: 9 Church Walk

Proposal: Retention of alterations to portico on front elevation

Applicant: Mr K Fenwick

Case Officer: Michael Collins

Date for Determination: 11 August 2009

This application has been referred to the Development Committee following an inspection of the site by a panel of Members on 2 September 2009, at the request of one of the Ward Members on the following grounds:-

- *“to ascertain if there is a detrimental impact on the use of the materials of the two pillars to the listed building quality of the overall building”.*

THE SITE

1. No.9 Church Walk is a single residence which in 1978 was included in a list of buildings of special architectural or historic interest compiled by the Secretary of State under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. This grade II listed dwelling comprises a two-storey range which displays a gault brick façade onto Church Walk. The front elevation offers a balanced appearance of which the focal point is the centrally positioned portico.
3. The property occupies an important position, facing across Melford Green and forming an integral part of a line of listed buildings in Church Walk which lead past Trinity Hospital and onto the Church of the Holy Trinity, both grade I listed buildings.

THE PROPOSAL

4. The application for listed building consent seeks the approval of works undertaken to the portico in 2005 consisting of the replacement of the two columns and two pilasters and their respective bases. The removed components were of timber construction with a painted finish, sitting on plastered brick plinths, and these have been replaced with glass-fibre reinforced plastic sections of a differing form to that which previously existed.

RELEVANT HISTORY

5. None.

NATIONAL GUIDANCE

6. **PPG 15** (Planning and the Historic Environment) (1994)

PLANNING POLICIES

7. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and saved policies in the Babergh Local Plan (Alteration No. 2), adopted 2006. The following policy is relevant to this proposal:

Babergh Local Plan (Alteration No.2) 2006

- **CN06** (Listed Buildings)

The relevant documents can be viewed via the internet – please see page 4 for details.

CONSULTATIONS

8. PC – recommend approval.

REPRESENTATIONS

9. A letter in support of the application has been received from Ely House, the neighbouring property, which comments that ‘the work appears to have been done efficiently and is entirely in keeping with the property’.

PLANNING CONSIDERATIONS

10. The primary duty of the Local Planning Authority when considering whether to grant listed building consent is contained in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It provides that in considering whether to grant listed building consent for any works the local planning authority ‘shall 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’.
11. The Secretaries of State have made it clear that, as a matter of policy, listed buildings should be preserved. The underlying policy approach is summed up in paragraph 3.3 of PPG15 ‘Planning and the Historic Environment’ (1994).
12. Listed buildings can be robbed of their special interest as surely by unsuitable alteration as by outright demolition. There should be a general presumption in favour of the preservation of listed buildings, except where a convincing case can be made for alteration.
13. While the listing of a building should not be seen as a bar to all future change, the starting point for the exercise of listed building control is the statutory requirement on local planning authorities contained in section 16 of the 1990 Act. This reflects the great importance of protecting listed buildings from unsuitable and insensitive alteration.
14. When considering an application for listed building consent, the tests to apply are as set out in PPG15 and as confirmed by case law – first, will the proposed works significantly harm the listed building; second, if so, are the works desirable or necessary? Applicants seeking listed building consent must be able to justify their proposals.
15. In early/mid-2007 officers investigated unauthorised alterations to the portico on the front elevation of no.9 Church Walk which is a grade II listed building. The list

description of 1978 highlighted the existence of 'a Tuscan portico with plain columns and a cornice'.

16. The original portico was of timber construction with a painted finish, and comprised two columns and two pilasters supporting a canopy over the principal entrance door. Described as a 'Tuscan' portico in 1978, the whole was typically simplified in its design with plain heavy shafts.
17. It was observed that the two columns and the two pilasters, together with their brick bases, had been replaced. The replacement columns and pilasters differed from those removed in their detail and in that they were of a more slender form, with a more pronounced taper. The reduction in size was evident in the brickwork of the façade.
18. In addition to the alterations to form, the new components were not of the same materials and finish but were instead made of glass-fibre reinforced plastic. The same had been used for the replacement bases.
19. At this point the applicant was advised that the 1990 Act provides that no person shall execute or cause to be executed any works for the alteration of a listed building in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. The applicant was further advised that the works that had been undertaken had affected the character of no.9 Church Walk and that the works were unauthorised, there being no listed building consent granted for them.
20. The applicant advised that the work was undertaken in mid-2005 and that the columns and pilasters were rotten. The applicant further advised that replacement, rather than repair, had been undertaken as a more durable material was required, and that the alterations to the form were as a result of copying those columns on the portico of the neighbouring property (Ely House) rather than those that were being removed.
21. Regular maintenance and repair are the key to the preservation of historic buildings. Detailed guidance on works that affect the special interest and character of a building, and that therefore require listed building consent, have been prepared by English Heritage and are contained in Annex C of PPG15. The guidance states that repairs should usually be low-key, and that porches (including open porches of the Classical type) are sometimes the dominant feature of an elevation and their detailing should always be respected.
22. With the aim of achieving a consistency of approach in historic building repair, English Heritage first published in 1991 'The Repair of Historic Buildings: Advice on Principles and Methods'. The 2004 edition states the following:
23. The primary purpose of repair is to restrain the process of decay without damaging the character of buildings. Works of repair should be kept to the minimum required. In making repairs, the aim should be to match existing materials and methods of construction, in order to preserve the appearance and historic integrity of the building.
24. Joinery forming an integral part of a building may include such external features as porches. These will very often be essential elements in the original design of a building or of a significant later phase of alteration, and as such make a major contribution to a building's interest and importance.
25. The fundamental principle to adopt in repairing historic joinery is to replace only what is necessary. Where replacement is unavoidable, the new work should follow the existing work precisely. The use of substitute materials such as glass fibre reinforced plastic (GRP) is inappropriate.

26. Consequently, the applicant was advised in writing in April 2007 that, where individual components of the portico were incapable of repair, their replacement should have been undertaken in matching form and materials, and that such work would not have required listed building consent. However their replacement had been undertaken in a manner which differed in form and materials from that which previously existed. The works would have required listed building consent and that had an application been submitted for determination before the commencement of works then, in accordance with national policy, support for the alterations would have been unlikely.
27. The applicant was further advised that the new columns and pilasters, and their bases, should be replaced in a manner which was consistent with what should have occurred in this instance, that being matching form and materials to that removed.
28. Subsequently the applicant wrote to officers to advise that an application for listed building consent would be submitted seeking approval for the works undertaken.
29. A period of eighteen months followed without receipt of an application and consequently it was determined that, in the absence of any submission, the local authority should move to secure alterations to the portico. Consequently, enforcement proceedings were commenced in February 2009 which would lead to the issuing of a Listed Building Enforcement Notice under section 38 of the 1990 Act for restoring the building to its former state.
30. The applicant advised in March 2009 that a submission would be made, and that application (now before Members) was registered in June 2009. Consequently, the issuing of any enforcement notice has been put on hold pending the outcome of this application.
31. Applications for consent to retain works already undertaken should follow the same procedures as any other application for consent. Local authorities should not grant consent merely to recognise a *fait accompli*; they should consider whether they would have granted consent for the works had it been sought before they were carried out.
32. It is a criminal offence to execute, or cause to be executed, without first obtaining consent any works of alteration which would affect the special interest of a listed building. Local authorities need to consider, when faced with a breach of listed building control, whether to take enforcement action or to prosecute, or both.
33. Well-publicised successful prosecutions can provide a valuable deterrent to wilful damage to listed buildings and it is the Secretary of State's policy to encourage proceedings where it is considered that a good case can be sustained. In this instance, however, it is viewed that enforcement action to secure the reversal of the work undertaken represents a sufficient response to the offence.
34. Finally, the applicant advised in discussions in 2007, and again in supporting statements with the current application, that the replacement of the components to the portico at no.9 were undertaken in a manner to match the two columns to the portico of the neighbouring property (Ely House).
35. Ely House is a grade II listed building entered onto the list in 1953. The listing description of that date highlighted the existence of 'a Doric portico with plain columns, fluted half round responds and a modillion cornice'. The applicant has advised that the two columns to the portico of Ely House were replaced with GRP in 1988. This was first brought to officers attention in 2007 and examination of planning history confirms that the work to Ely House was undertaken without the necessary consent.

36. Consideration of the work undertaken to Ely House should take into account the passage of time since the alterations were undertaken. In particular it should be viewed that the date that the work took place was before the significant changes to the listed building system that occurred in the early 1990's. It would therefore not be reasonable to take action against the breach of listed building control that has occurred at Ely House. Experience suggests that it is likely that this isolated instance of unsuitable alteration will in due course be put right by any future owner of Ely House.
37. It is however important for the preservation of the character of all listed buildings in Church Walk that normal listed building controls regarding external joinery are applied by the local authority to the alterations undertaken at no.9. Despite what has been undertaken at Ely House over twenty years ago, a refusal of consent for the current application is in the interests of the character of no.9 itself, and is also in the interests of a robust defence on appeal to any other breach of listed building control that may occur in the future in Church Walk.
38. Officers have discussed the interpretation of policy and the stance outlined above with English Heritage on an informal basis and they have confirmed (informally) it to be appropriate.
39. In conclusion, the alterations undertaken to no.9 Church Walk significantly harm the character of the listed building and the approach to repair adopted by the applicant is not justified.

RECOMMENDATION

- (1) Refuse listed building consent:
 - Inappropriate alterations (by virtue of form and materials) contrary to PPG: Planning and the Historic Environment (1994) and to saved policy CN06 of the Babergh Local Plan Alteration No. 2 2006.
- (2) That, following the issuing of a refusal of listed building consent, the Chief Planning Control Officer be authorised to issue a Listed Building Enforcement Notice under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to restore the portico to its former state (by virtue of acceptable form and materials) and
- (3) That prosecution of the applicant for the offence committed is not pursued in this instance.