

# Appeal Heritage Response

## Northaw House, Judge's Hill, Cuffley

### Introduction

1. This note has been prepared by HCUK Group on behalf of LW Developments with regards to an appeal against the decision of Welwyn Hatfield Borough Council (WHBC hereafter) to refuse an application for enabling development at Northaw House (LPA refs: 6/2021/0072/MAJ and 6/2021/0071/LB). In particular, this note has been produced following the recent receipt of the Council's Statement of Case, including Appendix WM8, 'Heritage Statement'.
2. As part of the Council's Statement of Case, concern was raised with regards to a series of works which the Council assert that either are in breach of the 2019 consent's conditions (LAP refs: 6/2019/0217/MAJ and 6/2019/0218/LB) or which do not have listed building consent. These works are summarised by the Council as:
  - Works to the Walled Garden have been undertaken, which differ from the approved plans.
  - A curtilage listed building formerly adjoining the Walled Garden, which was referred to as a lean to structure on the submitted plans has been demolished without Listed Building Consent.
  - The roof tiles on the front elevation of Northaw House have been removed without consent being granted for these works.
  - The 'Cupola' which was formerly within the roof of the Stable building has been removed without Listed Building Consent.
  - Works on site have commenced without the relevant discharge of listed building conditions.

- The appellant has failed to comply with the requirements within the S106 to have the Restoration Plan approved prior to the commencement of development on site.
3. These works were all undertaken without HCUK Group's knowledge. However, following a site visit on 25<sup>th</sup> May 2022, I have now had the opportunity to review the situation on site and provide further information to the Inspector.

## Works to the Walled Garden

### Restoration Works Commenced and Changed to Consented Plans

4. Consent was granted for the restoration of the curtilage listed walled garden as part of the earlier 2019 scheme and these works have commenced. While relevant conditions were not discharged in advance of the work starting which was unfortunate, the restoration works have been undertaken to a high quality and I am confident that the Council would have been supportive of the works should the correct procedure have been followed. For example:
- Where areas of re-building was required, historic bricks have been cleaned and reused and where a deficit was present, re-claimed bricks of the same proportions have been used and then colour matched to suit;
  - Where area of rebuilding has been necessary the brick bond has been matched and new areas have been constructed to match the height and design of the original walls; and
  - The walls have been repointed in a lime mix matching the exiting mortar mix present on site and the pointing style matches the historic detailing to ensure a seamless restoration job.
5. The one exception to this is an area to the north east of the wall adjacent to Oak Cottage. The historic wall dropped here with angled splays, presumably to provide greater levels of natural light into the garden of Oak Cottage. As part of the consented scheme, a flat roof extension was consented to the rear of Oak Cottage which would have been visible from within the walled garden due to the lower area of wall. In response to this, and in order to preserve the character of the interior of the walled garden (this area is particularly sensitive given that it is the

open landscaped quadrant of the walled garden) when the walls were being restored, the lowered portion was slightly narrowed and relocated to avoid visibility of the modern extension.

6. While undertaken without the relevant and necessary consent, this work has been undertaken to a high standard and is not found to affect the significance of the walled garden or Oak Cottage as curtilage listed buildings (or indeed the significance of Northaw House). This is due to:
  - The character of the walled garden being preserved;
  - The overall design of the walled garden with a lower section of wall serving the garden of Oak Cottage being preserved;
  - The way in which historic brickwork has been re-used for the work;
  - The high quality of craftsmanship which has been undertaken;
  - The wall continuing to serve as an enclosing feature; and
  - The way the changes avoid a detracting feature (the flat roof of the modern extension) being visible from within the walled garden.
  
7. Overall, while undertaken without the relevant and necessary consent, this minor change to the curtilage listed wall entirely preserves the significance of the listed buildings on the site. It is proposed that this element of unauthorised works be dealt with via a variation/discharge of condition but if the Council require it, a separate retrospective listed building consent application could be submitted.

## Demolition of the Lean-to Structure

8. Rather than being demolished without consent, this structure collapsed due to its poor condition and storm damage between 16-21 February 2022. While it would have been best practice for the Council to have been notified about this at the time, it has always been proposed to faithfully reconstruct this building re-using the original materials which have been safely stored on the site following the building's collapse. These works are due to start soon with the restoration to be based on detailed photographs taken prior to collapse, measured surveys and the submitted Building Record (specifically paragraphs 4.101 to 4.102 and photographs 146-149). The Council were informed of the intention to restore the

building on 31 May 2022 and, at the time of submitting this note, had not raised any concerns with this course of action. It is expected that these works will be complete by the time of the hearing date.

## Roof of Northaw House

9. The Council claim that consent was not granted for the removal of the slates from the roof of Northaw House. However, consent was granted for a full refurbishment of the building alongside its residential conversion and, as part of this work, it is evident that the removal of the slates would have been required to facilitate much needed repair to the roof and its structure and to allow the building (which has suffered from considerable damp for a number of years) to breathe. The Council also knew that the building's existing roof has been leaking for a number of years leading to LW Developments having installed a temporary scaffolded roof over the building back in 2017. It is relevant to note that this has been at a great expense to LW Developments and the costs of this (totalling c.£80,000 to date) have been absorbed by the developer and not included within the enabling development sums.
10. All slates removed from the building have been retained on site and c.70% of those slates are thought to be capable of re-use. It is understood the Tim Murphy (Place Services) was aware of the removal of the slates and advised Lee Williamson over the phone early in 2021 regarding appropriate slates to make up the deficit.
11. The submitted Building Condition Report from the 2019 application provided the following assessment of the roofs of Northaw House:

*"The roofing slates appear to be original; there are various slipped and missing slates; the fixings to many slates have rusted through and the slates are now held in place with metal clips. Many of the lead ridges, hips and flashing have been stolen. The flat roof areas are in a poor condition and need extensive repair or replacement. Overall, the roofs are now in a very poor condition with water leaking through to the interior in many areas. There is evidence of some timber decay and a very high risk of a widespread dryrot problem. If the roof is left unprotected then the timber decay will accelerate very rapidly throughout the roof structure and into other timber elements of the building resulting in*

*extensive defects. Immediate temporary weather protection is essential to all roof areas to stop the water ingress which is the main cause of dryrot in buildings.”*

*“The main house roofs need immediate temporary weather protection. An extensive programme of repairs and improvements is required.”*

12. Part 2 Heritage Statement (HCUK Group, 2019) was also clear in that the works entailed the repair of the roof. At paragraph 25, under the subheading ‘Physical Alterations’, the report noted:

*“One key element of the works will be the repair and refurbishment of the roof structure which has deteriorated (due to lead theft) and, as a result, cause water ingress to the building. A temporary scaffolded roof was erected in 2017 to halt deterioration.”*

13. On this basis, the Council can have been under no illusion that the consented listed building application did not also include repairs to the roof which would require stripping off of the damaged slates.

## Stable Block Cupola

14. While the cupola from the Stable Building has been taken down from its original location this has been undertaken on the grounds of safety both for those working on the site and the safety of the building. Recently the cupola has been significantly leaning and with the recent storm damage (including the collapse of the walled garden lean-to building and partial collapse of the conservatory), the decision was made to secure the building and historic fabric of the cupola by way of temporarily removing it from the building to be safely stored. It is relevant to note that these works would have happened regardless to facilitate the restoration of the feature. All historic elements have been secured on site (see photos taken 25/05/2022) and can be shown to the Inspector during the appeal site visit.



Figures 1 and 2: Weathervane and top of the cupola safely stored on site at Northaw House



Figures 3 and 4: Sides of the cupola stored safely on site at Northaw House

15. The question of whether temporary works (such as the temporary removal of the cupola) even require listed building consent has been dealt with by the courts in *East Riding of Yorkshire Council v Hobson* where the following was noted:

*"To take a simple example by way of illustration which was canvassed in the course of argument, which derives from the facts of R v Sandhu, if an owner of a listed dwelling proceeds without listed building consent to replace some windows, there can be little doubt that at the stage when the building is windowless, its special listed character would be affected, and indeed adversely so. But by the time that he has finished that process and replaced the old windows with new ones, perhaps more in keeping with the architectural or*

*historic character of the building, it may well be that there is no effect on that character of any materiality at all.*

*Is it open to the planning authority to prosecute on the basis of the works of removal and their effect and to require the court to ignore the replacement stage? I do not believe that it is... Parliament has deliberately chosen not to criminalise all works of alteration to a listed building. It has qualified the position... so that only works of alteration which affect, or would affect, the character of the listed building are caught. Any court of law faced with that issue cannot decide it until it has first determined what the works of alteration consist of. That is a question of fact for the court- or in some cases, no doubt, the planning inspector--to determine. That is a crucial question to be decided.*

*In a case like the present, deciding it may well involve, in particular, asking whether the works are to be seen as including some replacement or rebuilding activity... That determination may be influenced by a number of factors. Thus, if there was some appreciable time gap between works of removal or dismantling on the one hand and any replacement or rebuilding activity on the other, the court might take the view that those two elements were separate and distinct and that only the former constituted the works of alteration. Particularly would that be likely to be so if there was evidence that the replacement or rebuilding works had only come about because of some step taken or warning given by the planning authority, or other evidence of an intention not to proceed with such later works for the time being."*

16. On this basis, no breach in consent is found. Consent has already been granted for the restoration of the Stable Block (which included the cupola) and, as demonstrated by LW Development's safe storage of the dismantled cupola, they have every intention of reinstating it once the building is restored and converted and capable of supporting it. In this case, the removal of the cupola is a temporary condition and must be seen in conjunction with the wider consent for restoration.

## Commencing Works Without Discharging Relevant Conditions

17. As noted above and within the Council's Statement of Case, there are a number of areas where works to the site's listed buildings have commenced without the

relevant conditions having been discharged. While it is understood that this is not an appropriate course of action, LW Developments undertook the work with the best intentions insofar as seeking to preserve the site's listed buildings which are continually, and in some cases rapidly, deteriorating.

18. While relevant conditions were not discharged in advance of the work starting which was unfortunate, the works undertaken to date have all been undertaken to a high standard and in accordance with the consented scheme (with the exception of the lowered portion of walled garden as discussed above) and I am confident that the Council would have been supportive of the works should the correct procedure have been followed. At the time of writing this note, a live discharge of condition application (LPA ref: 6/2022/1078/COND) relating to Condition 1 (construction/repair method statement), Condition 2 (window and door details) and Condition 3 (materials) have been submitted and is awaiting determination by the council.

## Restoration Plan

19. While LW Developments accept that works were started prior to the submission of the Restoration Plan as required by the S106, this has now been submitted to the Council.

31 May 2022

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