
Appeal Decision

Site visit made on 31 August 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

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

Decision date: 27 September 2016

Appeal Ref: APP/P0119/F/16/3146998

Frogmore House, Sheepfair Lane, Marshfield SN14 8NA

- 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 T Rudge against a listed building enforcement notice issued by South Gloucestershire Council.
 - The Council's reference is COM/15/0887/OD/2.
 - The notice was issued on 26 February 2016.
 - The contravention of listed building control alleged in the notice is (a) the unauthorised demolition of a section of curtilage listed historic stone garden wall, including gateway, shown on the plan and in the photograph attached to the enforcement notice and (b) the failure to comply with condition 2 attached to the listed building consent for partial demolition and erection of replacement stone wall, maximum height 2.4m (reference PK14/2694/LB) granted by South Gloucestershire Council on 3rd September 2014.
 - The requirements of the notice are either (a) reinstate the curtilage listed garden wall and gateway in the position shown hatched green on the 'block plan' reference RH/SW002 rev A attached to the enforcement notice or (b) reinstate the curtilage listed garden wall and gateway in accordance with drawing RH/SW012 rev B (copy attached to the enforcement notice) and in the position shown hatched green on drawing RH/SW/002 rev A attached to the enforcement notice. With either option the reinstated curtilage listed garden wall and gateway are to match the original wall in respect of height, width, length, profile and coping, as shown on the photographs 4 and 5 attached to the enforcement notice. For the avoidance of doubt the wall shall be constructed in coursed, natural Cotswold garden walling stone to match in size, colour and thickness the original wall. The stone is to be laid in horizontal course of regular height with variation between courses. The use of vertical jumper or through stones that breach two or more course of stone should be avoided. All walling stone must be laid on its natural bed. Where mortar is to be used to consolidate the core of the wall or to bed the facing stone, this shall be a traditional lime mortar using a well graded aggregate/sand that will provide a coarse texture, and a similar colour of mortar to the stone. All stone shall be tightly laid to keep the mortar visually recessive to the stone, and the mortar shall be finished to follow the arrises of individual stones and without brush marks. The coping shall be natural ashlar coping, once weathered to match the size and profile of the coping on the adjoining length of historic wall. The gateway shall be reinstated on its south facing side with natural ashlar stone jambs and lintel with timber hardwood lintel on this northern side.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the grounds set out in section 39(1) (b) & (g) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Procedural Matters

1. Condition 2 of listed building consent reference PK14/2694/LB states that the reinstatement of the curtilage listed garden wall and gateway hereby approved shall be completed in its entirety within 12 months of the date of this decision. The wall shall be rebuilt in accordance with drawing RH/SW/012 rev B to match the original wall in respect of height, profile and coping, except where indicated otherwise on the drawing hereby approved.

Decision

2. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused 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.

Reasons

Ground (b)

3. The photographs of the wall in about 2012 do not suggest that the wall is in such a condition that it would be likely to fall down. However, I accept that some bulges may not be visible in those photographs. I have also looked at the nearby length of wall adjacent that has crumbled and partially collapsed. However, the wall in the photographs is clearly not in that condition and where this adjacent wall has partially collapsed, there is still much of it remaining.
4. I have noted the position of the trees both in photographs and as identified at the site visit. One tree stump is still in position and is at the far end of the opening that has been formed in the wall and another tree now not visible was fairly close to the other end of the opening formed.
5. The appellant notes that when felling these trees none of the branches touched the wall. While the trees may have been causing pressure on the wall, I would have expected that to have been taken into consideration when felling them and appropriate support provided. However, in any case, the length of the wall that has been removed or 'damaged' as shown in the March 2013 photographs is long and much of it well away from the tree positions. These later photographs taken by the council on 5th and 12th March 2013, following some of the felling work, clearly show the majority of the wall to be intact. While some repairs are necessary there is no evidence of instability requiring the total demolition of this part of the listed building. At my visit none of the wall was visible in the 'opening', with the ground being grassed over and it being entirely removed above ground.
6. Looking at the photographs and past history, I do not accept on the balance of probability that the wall and foundations were damaged by the trees or collapsed naturally or that the condition sufficient to justify the substantial demolition that has taken place. I conclude in relation to ground (b) that the works alleged have taken place and that a section of the listed wall has been demolished, and not rebuilt, without authorisation. The appeal on ground (b) fails.'

Ground (g)

7. I have taken into consideration the cost of replacing the wall, which I do not dispute, but this is a stone listed building and the cost does not seem unreasonable or excessive and does not affect my decision. There is also some discussion about the appellant gaining from the demolition of the wall. Clearly it is the appellant's wish to incorporate the land behind into the main garden area of his house as demonstrated by the previous application and appeal decision. However, whether or not that is the case has no effect; it is clear that a listed building has been partially demolished and needs to be rebuilt. The benefit of opening up the garden would not be sufficient reason to justify removal of the wall, as explained in the previous appeal decision.
8. I have also taken into consideration the views of the parish council, but unauthorised works have occurred, causing harm to a listed building, and this needs to be remedied.
9. Whether the works to which consent PK14/2694/LB were commenced or not, it is reasonable to require that the wall be rebuilt to its former arrangement. However, I also consider that as partial demolition of the wall has occurred, this was sufficient to commence the works in listed building consent PK14/2694/LB and that this could in the alternative be complied with and it has not. The appellant can either reinstate the wall to its former state or effectively comply with the listed building consent and condition 2 by following the alternative requirement. The works required do not exceed what is necessary for restoring the building to its former state and the appeal fails on ground (g).

Graham Dudley

Inspector

