
Appeal Decision

Site visit made on 6 June 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 15 June 2017

Appeal Ref: APP/Q3305/Y/16/3162810

The Market Place, Nunney, Frome, Somerset BA11 4LY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Nunney Parish Council against the decision of Mendip District Council.
 - The application Ref 2016/1144/LBC, dated 27 April 2016, was refused by notice dated 13 July 2016.
 - The works proposed are to modify and repair existing wall in Market Square to incorporate an open-sided shelter to replace shelter (1950s) previously demolished as unsafe and dilapidated.
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Decision

1. I dismiss the appeal.

Reasons

2. The appellant expresses the view that the wall is not listed, being sufficiently different from and not associated with the listed bridge. However, the wall is attached to the bridge and to no other standing item, and performs part of the function of the bridge parapet in guarding the brook. Notwithstanding the differences in apparent date of construction and use of materials, the wall should be regarded as being listed along with the bridge by reason of its close association, attachment and function.
 3. The proposed shelter has been stated by the appellant to have been agreed as permitted development under Part 12.A.(b) of the Town and Country (general Permitted Development) (England) Order 2015. This allows public authorities, including Parish Councils, to erect bus shelters and the like. From the information provided on the drawings, the proposed shelter does not touch the listed wall nor rely on it for any support, nor does it of itself bring about any change to the wall. This listed building consent appeal is not therefore concerned with the erection of the shelter.
 4. There has been representation from local residents over the visual impact of the shelter and the change to the wall height, but as just stated, the provision of the shelter is not a matter for this appeal, although the effect on the wall is. That representation also expressed concern over the effect of reducing the height of the wall on privacy, but that is not a matter for a listed building consent application or appeal; sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 make clear why listed building consent should be sought and the matters to be determined.
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5. The main issue in this appeal is therefore the effect of the reduction in the height of the wall on the architectural or historic significance of the listed structure and its setting within the Nunney Conservation Area.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to applications and appeals made under the Planning (Listed Buildings and Conservation Areas) Act. Section 16(2) of the latter Act requires special regard to be had to the desirability of preserving the listed building or its setting or any special architectural or historic features it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. These duties are reflected in Policy DP3 of the Mendip District Local Plan (Part 1) 2014-2029 which seeks the preservation of heritage assets whether listed or not, and this is a material consideration.
7. Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.
8. Whilst it is noted that the wall has been reduced in height previously to allow a view of the notice board nearer the bridge, the wall continues to perform the function of a guard to the brook and a containment of the market place, both visually and by reason of its height. That existing reduction is limited in length, although it is not shown on the drawings or referred to as being there with consent.
9. The proposed reduction in the height of the wall would extend over the considerable length from approximately the position of the listed telephone kiosk to its end nearer the shop, with a step at the location of the proposed shelter. This reduction would weaken the significance of the wall as containment for the market place and erode the character and appearance of the conservation area. It would also reduce the architectural and historic significance as a guard to the brook, a function that is presently continuous from the bridge parapet. The proposal would cause harm to designated heritage assets of the listed structure and the conservation area.
10. The level of harm is 'less than substantial', a differentiation required between paragraphs 133 and 134 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The appellant states that they wish to restore the wall and lower one part to access views of the brook and castle from the proposed shelter, to improve the amenity of the village for residents and tourists, stated to be in the order of 15,000 a year.
11. However, it is clear that the view to be had of the castle when standing behind the wall is only of the top of the towers, due to intervening roofs, and that from a seated position the view would be less. There are other places well-signposted where the view is better, including from the bridge at the castle entrance, although that appears to be closed due to its condition with an extension to the closure being indicated by a public notice on that structure. The repair of the wall would be a benefit, but listed structures should be kept in repair and that is not a justification for the removal of part of it. There may

well be benefits in there being a shelter in this location, where one stood previously, but that does not necessarily require the work to the wall.

12. To conclude, the proposal would cause harm to the architectural and historic significance of the listed wall and there are no public benefits sufficient to outweigh that harm. The works are contrary to the statutory tests in sections 16(1) and 72(2) of the 1990 Act and Policy DP3 of the Local Plan, and would not accord with the aims of the Framework with regard to the protection of designated heritage assets. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR