



Appeal Decision

Site visit made on 13 October 2020

by Katie Peerless Dip Arch RIBA

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

Decision date: 3 November 2020

Appeal Ref: APP/A1910/F/19/3237636

Lock Cottage, Ravens Lane, Berkhamsted, HP4 2DZ

- 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 Mrs Susan Griffin against a listed building enforcement notice issued by Dacorum Borough Council.
 - The enforcement notice was issued on 20 September 2019
 - The contravention of listed building control alleged in the notice is demolition of the south east boundary wall and gate.
 - The requirements of the notice are: Reinstate the boundary wall and gate fronting Ravens Lane to its former state:
The wall to match the retained section of brick wall to the front boundary in height.
The wall to be constructed in brickwork laid in Flemish bond with brick on edge coping to top course using bricks to match existing in terms of colour, size and texture laid with a lime based mortar to match existing.
Reinstate the timber picket entrance gate.
 - The period for compliance with the requirements is three (3) months.
 - The appeal is made on the grounds set out in section 39(1)(c) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue in this case is whether listed building consent has already been granted for the demolition of the wall.

Site and surroundings

3. The appeal site contains the single storey grade II listed Lock Cottage and is a narrow plot of land adjacent to one of the locks serving the Grand Union Canal as it passes through the Berkhamsted Conservation Area. Photographs show that there was a brick wall forming a boundary to the plot adjacent to the pavement of the road that passes over the canal via a bridge. The cottage faces the canal and is set down, and some way away, from the road.
4. The wall originally ran between the next property at No.23 Ravens Lane, which also stands adjacent to the pavement, and the brick pier adjacent to the railings of the bridge, with a picket style gate in its length. The south eastern section of wall and the gate have now been taken down and paving setts laid to form a hardstanding on the area behind where the wall once stood, across the front of the plot.

Reasons

Ground (c)

5. This ground of appeal is made on the basis that the works enforced against do not constitute a contravention of listed building control. The appellant submits that she did not know that the wall was considered to be part of the listing as it is not mentioned in the listing description. S.1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBA) makes clear that buildings or structures within the curtilage of a listed building and built before 1 July 1948 are to be considered as part of the building.
6. The appellant contends that there is no evidence submitted by the Council to demonstrate that the wall pre-dates 1 July 1948. Nevertheless, the Council considers that to be the case and it is for the appellant to demonstrate otherwise and that her case is correct, on the balance of probabilities. She has provided no evidence to this effect and, from the photographs of the wall, it appears to me almost certain that it was built before 1948.
7. The brickwork of the remaining northern section is different from that of the bridge pier, but this does not necessarily mean that it dates from after 1948. In fact, I would think that it is the bridge brickwork that is the later construction. Consequently, as the demolished wall formed part of the curtilage of Lock Cottage, listed building consent is needed to authorise its demolition.
8. The appellant submits that the removal of the wall and gate was in fact authorised through the approval of a landscaping drawing submitted as part of an application to discharge condition 4 of listed building consent reference 16/4392/LBC. She submits that this drawing is evidence that the demolition was authorised, because it does not show the boundary wall and gate that are the subject of this appeal.
9. The listed building consent referred to above was primarily for internal alterations but also included some external works which included *'the removal of the existing concrete path to the front of the dwelling'*. These works were not included in the description of the proposals but are referenced in the attached conditions, No. 4 of which required the approval of details of the *'replacement materials to be used on the surfaces'*.
10. A drawing was submitted to address this condition and it shows the hardstanding that has been laid behind where the wall used to stand and labels this as being for a car/caravan. The wall and gate are not shown on this unnumbered plan, which does not appear to be drawn to scale. In approving the details for condition 4 of 16/4392/LBC, reference is made to the details submitted in an email to a Council Officer received on 4 August 2015.
11. In this email the appellant gives the following information: *'Replacement of Asphalt Path. The asphalt is to be taken up and a permeable membrane laid, then topped with medium sized pebble aggregate. This will be edged with old stock bricks. The form of the old path will be followed entirely.'* This area is noted as 'gravel path' on the plan. There is no mention of the materials that are used on the area of hardstanding next to the pavement.
12. Nowhere in the application description, the submitted plan or the email of 4 August is the demolition of the wall referred to in explicit terms. Although the appellant considers the omission of the wall and gate from the plan is sufficient to indicate that listed building consent has been granted for the works, I am afraid I must disagree.

13. Plans may often show discrepancies from the existing situation but what is actually proposed and authorised by a consent must be able to be readily construed from the documentation. This is particularly applicable to listed building cases where the effect of demolition of all or part of a structure on the special architectural or historic interest of the building has to be specifically considered before consent is granted.
14. For example, in this case if someone examining the plan and email did not know that there had been a boundary wall to the property, there is no way of knowing that it had existed but had been removed. I therefore find that the discharge of condition 4 did not serve to grant listed building consent for the removal of the wall.
15. The appellant states that the landscaping drawing was submitted with the application and therefore formed part of it. However, as explained above, there is no reference to it in the approval notice or the attached conditions and I therefore conclude that there has been no consent granted for the demolition of the wall that forms part of the listed building at Lock Cottage and the appeal on ground (c) consequently fails.

Ground (e)

16. The appellant has not appealed on ground (e), that listed building consent should be granted for the demolition works, but has nevertheless raised arguments that go to this matter in her representations. In addition, the Council has addressed the issue in its Statement. I have the authority, which is granted under s.41(6) of the PLBA, to consider such an appeal whether or not it has been specifically pleaded on the appeal form and will therefore take her submissions into account. She considers that the works have not materially affected the listed building or the surrounding area and notes that most of the boundary to Lock Cottage is white picket fencing, with a mature tall hedge to the road.
17. She suggests that picket fencing that would open to allow vehicular access to the hardstanding area could be installed to improve the view of the new hardstanding and that this would be sympathetic to existing boundary treatments. It is apparently a condition within her title deeds, required by the Canal Trust, that the existing white picket fence to the lock side is maintained, but she claims that the wall is not mentioned.
18. In contrast, the Council considers that the demolished wall was of some age and made a positive contribution to the setting of the listed building and the conservation area. It considers that off-street parking at this position would be unlikely to be granted permission because of concerns on highway safety grounds. The Council has also submitted that some of the examples cited by the appellant may not be authorised. This may be so, but that is not an issue that relates to the merits of an application for listed building consent.
19. Nevertheless, from what I saw at my site visit, low brick boundary walls, whether old or more modern, are a typical feature of the conservation area and, in the immediate vicinity of the appeal site, there was only one example of a parking area adjacent to a pavement similar to that found at the appeal site, and that example is not in the curtilage of a listed building. The other examples submitted are not, in my view, directly comparable to this case, which I have therefore judged on its own merits.

20. It seems to me that the significance of the wall lay in its positive contribution to the setting of the cottage and the wider conservation area around the bridge and canal. Its traditional construction and use of materials helped to provide a sense of continuity to the street scene which has now been interrupted. The area of hardstanding has not been included in the listed building enforcement notice, but the removal of the wall allows a clear public view of the modern paving setts on it. These look out of place in this location and the demolition works have exacerbated this effect. I therefore consider that the works have diminished the historic and architectural interest of the area. For listed building consent to be granted in such a situation, the development would need to provide public benefits sufficient to overcome the harm caused, as required by paragraphs 193 – 196 of the National Planning Policy Statement.
21. The appellant has cited her personal reasons for needing a parking space and hardstanding close to her property, but I do not consider these to be sufficient to justify the grant of listed building consent. I have every sympathy for the appellant and the situation she finds herself in and consider that she could have received clearer advice from the Council, but these are not reasons enough to justify the harm caused by the demolition of the wall.
22. I have also considered whether her suggestion of an openable picket fence to replace the wall would be an acceptable alternative. I have not been provided with a scheme to consider so cannot comment how this might operate but, in my view, whilst a fence of this style might be an appropriate boundary treatment in the conservation area, it would not necessarily compensate for the loss of the wall in this location or the harmful alteration to the setting of the listed building, the importance of which is particularly noted in the listing description. Neither would it effectively screen views of the paving.
23. The appellant also records that the wall in question was in a poor condition, with *'loose foundations and brickwork, unsupported at one end and anchored by the gate at the other'*. She claims it was a danger to passers-by and has submitted photographs of its condition prior to demolition. However, the poor condition of the wall does not provide justification for its total demolition without replacement; in such cases repair, or rebuilding to the original detail, should be the first option considered.
24. Consequently, I conclude that the demolition of the wall has harmed the setting of the listed building, it requires consent which it does not have and there are no public benefits that indicate that consent should be granted. It therefore fails to comply with the aims of the PLBA to protect the special architectural and historic interest of listed buildings and policy CS27 of Dacorum Borough Council's Adopted Core Strategy 2013. This policy seeks to conserve Dacorum's heritage assets, including conservation areas.

Conclusions

25. For the reasons given above I conclude that the appeal should fail.

Katie Peerless

Inspector