
Appeal Decision

Site visit made on 21 June 2021

by P N Jarratt BA DipTP MRTPI

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

Decision date: 25 June 2021

Appeal Ref: APP/W3330/F/20/3253765

Sweethay Farm Barn, Sweethay, Trull, Taunton, Somerset, TA3 7PB

- 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 Anthony Ormerod against a listed building enforcement notice issued by Somerset West and Taunton Council.
 - The enforcement notice, numbered E/0062/42/18, was issued on 28 April 2020.
 - The contravention of listed building control alleged in the notice is 1) the unauthorised insertion of a rooflight at roof level on the western elevation; and 2) the unauthorised installation of concrete roof tiles on the main barn.
 - The requirements of the notice are 1) remove the rooflight in the main roof of the western elevation roof slope and reinstate clay double Roman roof tiles over the void; and 2) remove the concrete roof tiles from the main roof and reinstate clay double Roman roof tiles.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the grounds set out in section 39(1) (a), (c), (e), (f), and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and listed building consent is refused for the insertion of a rooflight at roof level on the western elevation and the unauthorised installation of concrete roof tiles on the main barn.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the appeal property is within the curtilage of a listed building and whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.

Appeal Site

4. The appeal property is the southern half of a barn converted to holiday lets. The northern half of the barn is in separate ownership as is Middle Sweethay Farmhouse which is listed grade II. The barn is in close proximity to the farmhouse across a small yard which has been sub-divided by fencing from the appeal property. The subject barn is on two floors with a rear single storey

annex dating from the 1970s and having concrete tiles, although these tiles are not the subject of the notice.

Relevant Planning History

5. Application 42/16/0026 was approved subject to conditions for the change of use of the barn to form holiday accommodation and 42/16/0014LB approved various internal and external alterations to the barn.
6. Application 42/18/0025 for the variation of Condition 02 (approved plans) of 42/16/0026 was retrospective and involved the change of roof material on the main barn roof from clay double roman concrete tiles and for the insertion of a roof light. The refusal reason states that "The proposed change of roof tiles from clay to concrete harms the character and appearance of the listed barn by adding a modern material that has a uniform and regular appearance and colour. The insertion of the roof light is visually intrusive and when combined with the new roof tiles causes harm with no corresponding public benefit to offset the harm. The proposals are therefore contrary to the provisions of Chapter 16 of the National Planning Policy Framework and policy CP8 of the adopted Taunton Deane Core Strategy 2011-2028."
7. A listed building application for the retention of various works to the barn has been deemed invalid (42/20/0027/LB/INV).
8. It is noted that the conversion of the adjacent barn to a holiday let was approved in 2011.

Policy Background

9. Section 16 of the LBCA requires special regard to be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, before granting listed building consent. In addition to the duties under the Act referred to above, the policies of the development plan for Taunton Deane are also material considerations as is the National Planning Policy Framework (the Framework).

Appeal on ground (f)

10. Although an appeal has been made on the ground that the notice was not served correctly, no evidence has been submitted to support this claim.
11. The appeal on this ground fails.

Appeal on ground (a)

12. An appeal on this ground is that the building is not of special architectural or historic interest on the basis that the appeal building is not included in the listing description, is not within the curtilage of the listed building, is a separate planning unit and in separate ownership. The appellant cites *Hants CC & the Open Spaces Society & Others v SSEFRA & Blackbushe Airport Ltd [2020] EWHC 959 (Admin)*, [2021] EWCA 398, [2020] JPL 398 in support.
13. Middle Sweethay Farmhouse was listed on 3 March 1988 and the description refers to it being a farmhouse C16 possibly earlier, enlarged C17, restored late C20. The barn is not mentioned in the list description but this does not mean that it is not curtilage protected. Section 1(5) of the Act confers protection to

- any object or structure within the curtilage of a listed building that has formed part of the land since before 1st July 1948.
14. The Council's statement clearly sets out the various considerations in their assessment of whether the barn is curtilage listed and cites *Debenhams PLC v Westminster CC* [1987] AC 396 and *A-G ex rel Sutcliffe v Calderdale BC* [1983] JPL310. In summary, these are that the outbuildings fall within the curtilage of the farmhouse at the time of listing and historically, and formed one enclosure. There is a strong boundary wall built into the outbuilding and this forms the northern boundary of the Middle Sweethay curtilage. The shared courtyard is small and was sub-divided with fences following listing. The buildings are intimately related in the historic development of the farmstead, proximity, layout and function such that they are part of an integral whole and a single unit.
 15. The appellant refers to English Heritage Listing within the Trull area indicating properties with barns or the listing of a barn in its own right but such information does not assist in this case which I have considered on the facts and judicial authority.
 16. The appellant draws attention to the *Sinclair Lockhart's Trustees v Central Land Board* [1950] 1 P. & C.R 195 regarding the interpretation of 'curtilage'. Whilst the barn may now be functionally separate to the farmhouse and in different ownership, this was not the case at the time of listing or in 1948. The appeal property satisfies the tests set out in s1(5) of the Act regarding the meaning of a listed building.
 17. Reliance is also placed by the appellant on changes that have occurred to the planning unit and I accept that the appeal property appears now to be in a separate planning unit to that of the attached barn and farmhouse. However, this is of limited materiality to the conclusion regarding curtilage listing as "the planning unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use" ¹.
 18. I note that in *R(Egerton) v Taunton Deane BC* [2008] EWHC 2752) it was held on the facts of that particular case that for one building to be within the curtilage of another building, their relationship must be both functional and spatial. However, this does not overcome the fact that there was both a functional and spatial relationship of the appeal property with Sweethay Farmhouse at the relevant date, notwithstanding the appellant's reliance on the farmhouse being a dwelling and the barn originally being used for agricultural purposes.
 19. I am left with no doubt that on the facts of this case and having had regard to all relevant judicial authority raised by the parties, the appeal property is a curtilage listed building.
 20. The appeal on this ground fails.

Appeal on ground (c)

21. An appeal on this ground is that if the matters occurred they did not constitute a contravention.

¹ Encyclopedia of Planning Law and Practice P55.44

22. As I have concluded that the building is curtilage listed, the works subject to the notice are unauthorised in the absence of listed building consent.

23. The appeal on this ground fails.

Appeal on ground (e)

24. An appeal on this ground is that listed building consent ought to be granted for the works, or that any relevant conditions of such consent which has been granted ought to be discharged, or different conditions substituted.

25. The Framework at paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction or from development within its setting) should require clear and convincing justification.

26. In this case the significance of the listed building arises from its historic role as a farmstead comprising the relatively substantial farmhouse, the subsidiary barn and the small courtyard. The presence and appearance of traditional materials form a key aspect of the historic and aesthetic significance of a listed building. Its setting is created through the disposition of other buildings, lanes and spaces in its vicinity. Various different roofing materials have been employed in the construction of neighbouring buildings and some roof lights are visible.

27. The Council's submitted photograph of the adjoining barns prior to conversion illustrates the simple form of the roof consisting of clay double Roman tiles with the ridgeline of the appeal property being considerably distorted through the passage of time. The renovation of the roof with the use of concrete tiles and the insertion of a centrally placed rooflight, which is visible from public viewpoints, coupled with the other alterations to the building, have created a distinctly domestic character. Additionally, the different external treatment and roofing materials used create two distinctive parts to the barn which is exaggerated through the visible division of the roof between the two units.

28. Much of this change is inevitable when the principle of the conversion of simple, utilitarian agricultural buildings to residential use is accepted but with care in design and with the use of appropriate traditional materials, the adverse effects of physical works can be mitigated to ensure that heritage buildings continue to adapt and serve a useful purpose. This would have been achieved had the works approved in 42/16/0014LB been carried out but the unauthorised use of concrete tiles and the insertion of a rooflight causes harm to the significance of the listed building and its setting through the intrusive central position of the rooflight and the nature, uniformity and texture of the concrete roof tiles.

29. However, the extent of the harm caused is less than substantial in the context of paragraph 196 of the Framework which states that the harm should be weighed against the public benefits of the development including, where appropriate, securing its optimal viable use. The appellant has not indicated any public benefits arising from the works that offset the harm caused.

30. Notwithstanding the extent of the harm caused I attach substantial weight to this level of harm which is not outweighed by any benefits and I therefore conclude that these unauthorised works are contrary to the Framework and to

Policy CP8 of the Taunton Deane Core Strategy which aims to protect the environment including historic assets.

31. I have had regard the representations submitted by the occupant of Middle Sweethay Farmhouse.

32. The appeal on this ground fails.

Appeal on ground (h)

33. The appellant considers that the compliance period of 6 months is too short for all the necessary work to be carried out and having regard to the property being a holiday let. A compliance period of 12 months is requested.

34. However, in my view the unauthorised works should be removed within a reasonable period in order to overcome the harm I have identified. I therefore consider that the compliance period is adequate to carry out the requirements of the notice.

35. The appeal on this ground fails.

Conclusions

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

P N Jarratt

Inspector