



Appeal Decision

Site visit made on 22 August 2022

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2022

Appeal Ref: APP/P1133/F/22/3300292

1 Exeleigh Bungalows, Starcross, EXETER, Devon, EX6 8PD.

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Donald McKenzie against a listed building enforcement notice issued by Teignbridge District Council.
 - The enforcement notice, numbered 21/00213/ENF, was issued on 11 May 2022.
 - The contravention of listed building control alleged in the notice is the unauthorised demolition of a section of boundary stone wall.
 - The requirements of the notice are to rebuild the section of wall shown in the approximate position indicated by a blue line between points A and B on the plan attached to the notice to the same height and using the same materials as the adjacent section of wall that still remains in place.
 - The period for compliance with the requirements is three 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.
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Decision

1. The appeal is allowed and the listed building enforcement notice is quashed.

Preliminary Matters

2. As the appeal site is visible from the public road I was able to carry out an unaccompanied site visit.
3. The appellant states that he has been given inaccurate information by the Council over the listed status of the wall over a period of time. It is not for the Planning Inspectorate to investigate a complaint of this nature but for the Council to consider it if appropriate to do so.
4. The appellant makes reference to the safety of the access onto the main road but these are not matters for this appeal which is solely concerned with the facts of the case relevant to an appeal on ground (c) which is whether the demolished section of wall is subject to the procedures relating to listed buildings.

The site

5. The appeal site is a semi-detached bungalow to the west of a vehicular access serving a number of residential properties created through the sub-division of a villa. A curved section of stone wall has been demolished as shown in the photographs attached to the notice, to create a new access onto the land at 1 Exeleigh Bungalows.

Reasons

6. A ground (c) appeal is that the matters alleged in the notice do not constitute a contravention. The issue therefore is whether the section of wall demolished by the appellant is listed or within the curtilage of a listed building.
7. The properties to the east of the appeal site comprise a Grade 2 listed property (list entry number 1169720). The building was listed in October 1988 and the listing description identifies the various parts of the divided villa, now forming 5 properties named Exeleigh South, Exeleigh House, Number 3 Exeleigh, Bell House and Exestowe East. No reference is made to 1 Exeleigh Bungalows which is located outside the curtilage of the listed building.
8. The notice refers to 'Garden Wall to Exeleigh South, Bell House and No 3 Exeleigh, to the gardens south and west'. The wall was Grade II listed in December 1988 (list entry number 1333972). It is described as 'Garden wall, formerly to Exeleigh which was subdivided in the late 1940s. Early to mid C19. Grey limestone rubble and brick with limestone capping. Tall garden wall extending along the roadside on the road from Kenton to Starcross and returning with a curved corner to the entrance to Exeleigh South. A doorway in the wall is probably later.'
9. The Council accept that the bungalow and the majority of its garden were developed outside the grounds of Exeleigh House but maintain that a strip of approximately 8-10 metres on the south-eastern side of the property was historically part of the grounds of Exeleigh House. The Council are of the view that the removal of a section of wall on the frontage of the appeal site forms part of the original boundary of Exeleigh and forms part of the listed wall.
10. Whilst there is a certain logic in reaching this conclusion, it is clearly evident from the listing description of the wall that this makes no reference to the lower curved entrance wall or gate piers on the appeal site, but confines the description to the wall on the south-east side of the access drive. Whilst I note that this is not determinative, I regard it significant that the listing relates to a garden wall and not to a garden wall and both sides of the driveway entrance. I note that an email dated 16 August 2021 from Historic England to the appellant states that 'although the wall you have mentioned is not included in the listing of the tall wall, it is possible that it is listed under the curtilage of the tall wall and is therefore listed by association'.
11. Historic England's Listed Buildings and Curtilage Advice Note 10 indicates that the curtilage of a building (the principal building) is in general terms any area of land and other buildings that is around and associated with that principal building. The courts have said that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building: the physical layout of the listed building and the structure; their ownership, both historically and at the date of listing; and the use or function of the relevant buildings, again both historically and at the date of listing. The Advice Note states that not all buildings will have a curtilage. A town centre building with no garden or yard may have no curtilage whatsoever.
12. In having regard to Historic England's advice, it is difficult to visualise a wall having a curtilage, unless it surrounds and contains land within it. In this case the curtilage of the original Exeleigh House is defined in part by the separately listed wall although the Council mentions the strip of land, which I assume

refers to the access drive, as being historically part of the grounds. The gate piers and former section of wall are not physically attached to the listed wall and any gate that may have existed is not evident. The demolished section of wall was significantly lower than the listed garden wall and limited in extent as the majority of the frontage boundary of the appeal site is fenced. The commonality between both sides to the driveway entrance is expressed through the curve of the stonework, but little else.

13. Past ownership indicates that Exeleigh bungalow was split into two properties in 1950, pre-dating the listing of the wall and the bungalow and boundary wall are in separate ownership to the listed house and listed wall. In terms of use and function, the listed wall forms an attractive physical and visual barrier between the access drive and the grounds of the listed house. Although the demolished short section of boundary wall may originally have been constructed as part of the driveway entrance providing an access to Exeleigh House and may have been associated with it, it now provides access to a number of properties in the converted villa and also to Exeleigh bungalows which do not appear to have any functional relationship with the listed building.
14. As a matter of fact and degree I conclude that the section of wall subject to the notice does not form part of a listed building, nor is it within the curtilage of a listed building. It follows therefore that no contravention of listed building procedures has occurred.
15. Notwithstanding this, the removed section of the wall formed part of the overall design of the entrance driveway, in the sense that both sides had curved walls albeit at different heights, and the overall appearance of the entrance has been compromised by its demolition.
16. A number of local residents refer to the entrance walls as being part of the listing but I have concluded to the contrary on the basis of the facts of the case.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed on ground (c).

P N Jarratt

INSPECTOR