



Appeal Decision

Site visit made on 13 August 2024

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 21 August 2024

Appeal Ref: APP/R4408/F/24/3337834

Land at Bridge Farm, Brierley Road, Grimethorpe, Barnsley S72 7EJ

- 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 Neal Clarke against a listed building enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 5 January 2024.
 - The contravention of listed building control alleged in the notice is: Without Listed Building Consent, the unauthorised demolition of outbuildings (The Unauthorised Works) being outbuildings within the curtilage of a Listed Building ("Bridge Farmhouse") at the Land shown edged blue approximately on Appendix 1 and in the attached photographs marked with arrows attached in Appendix 2 hereto.
 - The requirements of the notice are:
 - (i) Rebuild the outbuildings marked "2", "3" and "4" in the photographs in Appendix 3: with matching features and openings, using materials which match those shown on the remaining building marked "1" within the same photograph, in Appendix 3.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1) (c), (d) and (e) 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.

Appeal on ground (c)

2. To be successful on this ground of appeal, it must be successfully argued that the works carried out, as alleged in Paragraph 3.2 of the enforcement notice, do not constitute a contravention of section 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended (the Act). Section 7 of the Act states that '*Subject to the following provisions of the Act, no person shall execute or cause to be executed any works for the demolition or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest unless the works are authorised.*' Section 8 sets out when works to a listed building are authorised.
3. Bridge Farmhouse is a grade II listed building, it was added to the list in 1985. Section 1(5) of the Act defines what '*listed building*' means and at subsection (b) it states that '*any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948, shall be treated as part of the building*'.

4. The appellant disputes whether the appeal outbuilding should be treated as part of the listed building. The outbuildings are not fixed to Bridge Farmhouse and there is no dispute that the outbuildings have formed part of the land since 1 July 1948. Both parties have submitted their views on whether the outbuildings are within the curtilage of the principal listed building, Bridge Farmhouse and have cited a number of judgements¹ (herein cited as *Egerton*, *Sinclair-Lockhart*, *Calderdale* and *Debenhams*) in support of those views. I have also taken into account Historic England's Advice Note 10, Listed Buildings and Curtilage (HE Note 10) which includes examples of curtilages of listed buildings that have been used as farms. It states that '*the answer in farm cases in particular depends on the degree of physical separation and the distinction in use*'.
5. The Debenham's judgement determined that "listing" of a building as being of special architectural or historic merit is extended only to structures ancillary to it. Whilst *Edgerton* and HE Note 10 make reference to three factors that case law (*Calderdale*) has stated are relevant in identifying curtilage, i.e: a) physical layout; b) ownership past and present; c) use or function past or present.
6. In this case, the list description for Bridge Farmhouse states that it dates from early 19C with an earlier core. It describes the building as presently unoccupied and in an unfortunate state of disrepair. There is no mention of any other detached buildings within that description. The historic photograph and extract from the First Edition OS published in 1854 suggest that the outbuildings had been constructed by the mid 19C.
7. Bridge Farmhouse is set back from Brierley Road and at right angles to it. The outbuildings, the subject of this appeal, were situated on the land between the Farmhouse and Brierley Road. The Farmhouse currently takes access from Clifton Road to the North of the appeal site. However, from the evidence before me, including the historic map and photograph, Bridge Farm historically took access from the South, via a track off Brierley Road.
8. The historic photograph shows a track running from the farmyard's southern access and flanking the Farmhouse's western gable. The outbuildings were situated to the West of this track and had a collective L-shaped form. Although there are no walls aligning the track in the historic photograph, there is a clear hedgerow line which physically separates the track and farmyard from the Farmhouse's frontage/garden such that there is a clear distinction between the Farmhouse in residential use and the farmyard and buildings. Moreover, having regard to the aerial photographs submitted as part of the appellant's grounds of appeal, that hedgerow was replaced with a large stone wall which increased the physical separation between the Farmhouse and farmyard. Having regard to the details of that stonework shown clearly in the 2004 photograph attached to the list description, this wall and the wall that enclosed the western side of the track would almost certainly have been in situ in 1985 when the Farmhouse was listed.
9. I have had regard to the local planning authority's assertion that this case differs from the *Edgerton* (Jew's Farm) case, and from the examples shown in

¹ *R (Egerton) v Taunton Deane Borough Council* [2008] EWHC 2752 (Admin)
Sinclair-Lockhart's Trustees v Central Land Board [2050] 1 P&CR 195
Attorney General ex rel Sutcliffe v Calderdale Borough Council [1982] 46 PCR 399
Debenhams Plc v Westminster CC [1987] AC 396.

HE Note 10, as the separating track in this case cannot be considered to be a "road", the outbuildings of concern are much closer to Bridge Farmhouse, and the Farmhouse does not turn its back on them with some windows overlooking the farm buildings. However, I am also mindful that curtilage in any given case is a question of fact and degree and will depend on the extent of physical separation and the distinction in use, as well as ownership.

10. In this case, the position of the track, hedge and later stone walls, provided a clear distinction and physical separation between the Farmhouse and the agricultural enterprise which took place in the neighbouring outbuildings, farmyard and surrounding agricultural land. The First Addition OS 1854 extract, provided by the local planning authority, appears to show that there was some form of boundary treatment separating the farmyard from the Farmhouse. The land to the South and East of the Farmhouse appears as enclosed garden and/or possibly an orchard. Furthermore, the layout at the time of listing was such that there was a distinct physical separation between the outbuildings and the principal listed building.
11. The appellant's have provided evidence that Bridge Farm continued to be in agricultural use during the early 1990's², albeit the list description states that at the time of listing the Farmhouse was unoccupied. Furthermore, I have not been provided with any substantive evidence that would leave me to believe that the outbuildings were at any time in a domestic use ancillary to the residential use of the Farmhouse. I accept that there would have been some connection between the Farmhouse and the agricultural use of the outbuildings. They were both in the same ownership and no doubt some administrative tasks relating to the agricultural enterprise were carried out from within the Farmhouse. Nevertheless, in my experience, the principal use of a Farmhouse of this size would undoubtedly have been residential, and it was physically separate from the outbuildings. The outbuildings front onto the farmyard, which was originally separated from the Farmhouse by the track and hedge, and latterly by stone walls. It is also clear from the aerial photographs that building 4 was further enclosed by a stone wall creating its own courtyard.
12. Having regard to the evidence before me, there is little to indicate that the use of the outbuildings, historically or at the date of listing, were ancillary to the residential use of Bridge Farmhouse. Furthermore, by reason of the physical separation and boundary treatments identified above, the area associated with the residential use of Bridge Farmhouse would have been at the time of listing, readily identifiable visually and functionally.
13. For the reasons set out above, in my judgement, the physical layout and functions of the buildings mean that the outbuildings the subject of the enforcement notice did not, at the date of listing, form part or parcel of Bridge Farmhouse, and it was not part of the land intimately associated with Bridge Farmhouse. Overall, I conclude that as a matter of fact and degree, the appeal buildings cannot be treated as being within the curtilage of Bridge Farmhouse. The outbuildings are not therefore part of the listed building, and the demolition of those buildings were not therefore a contravention of Section 7 of the Act. The appeal on ground (c) therefore succeeds.

² Appendix 1 and Appendix 2, Appellant's Grounds of Appeal (ground (c))

Conclusion

14. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeal on grounds (d) and (e) do not fall to be considered.

Elizabeth Pleasant

INSPECTOR