



Appeal Decision

Site visit made on 11 February 2025

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/Z2505/F/24/3353313

Burton Hall, Wainfleet Road, Boston, Lincolnshire PE21 9RN

- 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 R Gandecha against a listed building enforcement notice issued by Boston Borough Council.
 - The listed building enforcement notice was issued on 11 September 2024.
 - The contravention of listed building control alleged in the notice is the execution of alterations and works (the Works) to the building, namely the construction of a brick built garden wall built to the left hand side of the vehicular access to the site and the installation of timber gates.
 - The requirements of the notice are demolish the wall and remove all resultant debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the grounds set out in section 39(1)(c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld.

Procedural matter

2. The appeal was to have been considered at a Hearing scheduled to start at 1000 hours on Tuesday 11 February. The Appellant did not attend. The Inspector, who has carried out an unaccompanied site visit, will therefore determine the appeal by consideration of written documentation previously submitted.

Reasons

The ground (c) appeal

3. A ground (c) appeal is made when the Appellant claims that the works alleged in the listed building enforcement notice do not constitute a contravention of listed building control. Burton Hall is a Grade II* listed building and has a frontage to Wainfleet Road. Along the frontage and to the right of the building is a boundary wall. The listing refers to 'Burton Hall and attached wall' and the listing description includes "To the right hand side a garden wall 5'0" high, in English bond with deeply chamfered brick coping". The garden wall abutting the pavement to the road is therefore an integral part of the listed building.
4. The right hand end of the wall is the left hand edge of a vehicular access into the property; the right hand edge of the access being defined by the side wall of a listed stable block. The timber gates referred to in the allegation are set back from

the road and are in line with the rear elevation of the stable block. The wall that is the subject of the allegation is between the left hand gate post and the right hand end of the listed garden wall. It is at right angles to, and abuts, the listed wall.

5. The wall that has been erected is constructed in stock brick laid in stretcher bond. It has no coping and rises above the listed wall by four courses. It is, in itself, unattractive. The historic listed wall is laid in English bond and has a distinctive deeply chamfered coping. Given its attachment, height and wholly different appearance the new wall has had a significant adverse effect on the character of the listed wall. The wall is therefore a contravention of listed building control. The purpose of the wall and whether or not it is visible when looking at Burton Hall are not relevant factors. The ground (c) appeal thus fails.

The ground (d) appeal

6. A ground (d) appeal is made when the Appellant claims that the works carried out were urgently necessary in the interests of safety and that the works carried out were limited to the minimum measures immediately necessary. The wall has been erected to prevent the Appellant's dog from escaping his property. The Appellant may claim that the erection of the wall was in the interests of safety. But if the need to complete enclosure of the property was urgent then a temporary fence could have been erected, which could have been completed in a day, rather than a brick wall, which will have taken many weeks to organise and erect. In this regard it cannot be claimed that the works carried out were the minimum measures immediately necessary. The ground (d) appeal thus fails.

John Braithwaite

Inspector