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## Appeal Decisions

Site visit made on 4 February 2025

by **Tom Bristow BA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2025

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### **Appeal A Ref: APP/U1105/W/24/3351943**

#### **15 Harepath Road, Seaton EX12 2RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Simon Berry against the decision of East Devon District Council.
  - The application is ref. 24/0164/FUL.  
The development proposed is described on the application form as '...the demolition of a section of boundary wall, creation of access and parking space, construction of retaining walls and installation of an electric car charging unit to the front, east, elevation.'
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### **Appeal B Ref: APP/U1105/Y/24/3351944**

#### **15 Harepath Road, Seaton EX12 2RP**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA') against a refusal to grant listed building consent.
  - The appeal is made by Simon Barry against the decision of East Devon District Council.
  - The application is ref. 24/0165/LBC.
  - The works proposed are described on the application form as '...the demolition of a section of boundary wall, creation of access and parking space, construction of retaining walls and installation of an electric car charging unit to the front, east, elevation.'
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## **Decision**

1. The appeals are dismissed.

## **Preliminary matters**

### *Statutory and policy context*

2. No.15 Harepath Road is part of a grade II listed building.<sup>1</sup> It falls at the northern edge of the Seaton Conservation Area ('SCA') as shown on map 1 of the Seaton Conservation Area Appraisal 1999 ('CAA'). I have approached the appeals in the context of sections 16(2), 66(1) and 72(1) of the LBCA as relevant. As set out in paragraph 5.2.2 of the appellant's Design and Access Statement of April 2024 ('DAS'), there is no dispute that the front boundary wall to the plot of no. 15 which would be affected by the proposal, in this decision simply 'the wall', should be treated as part of the listed building.<sup>2</sup>
3. Reflecting that heritage assets are an irreplaceable resource, paragraph 212 of the National Planning Policy Framework ('NPPF') sets out how great weight should be given to their conservation relative to their importance. Policies EN9 and EN10 of the East Devon Local Plan 2013-2031, adopted 28 January 2016, aim to achieve

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<sup>1</sup> List entry no. 1164852.

<sup>2</sup> With reference to section 1(5) of the LBCA, notwithstanding provision for certain demolition in other circumstances under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

similar. I have also had regard to relevant provisions of the Planning Practice Guidance, and to guidance produced by Historic England, notably Advice Note 18 ('HEAN18').<sup>3</sup>

### *Planning history*

4. Whilst each proposal must be determined on its merits, no. 15 has secured listed building consent or planning permission for various alterations previously, as noted in the Council's officer report associated with the applications and at section 2.0 of the appellant's DAS. The latter includes commentary on an unimplemented extension approved in 2013. Works in that respect, however, are not within the description of development in respect of either application ref. 24/0164/FUL or 24/0165/LBC (nor do the Council's decision notices refer to them). My determination instead focusses squarely on the proposal before me.

### **Main issue**

5. The main issue is the effect of the proposal in respect of historic significance.

### **Reasons**

#### *Special interest and significance*

6. Curiously no.15 adjoins no.11 Harepath Road to the south, the list entry title drawing from the latter.<sup>4</sup> No.15 originated, however, as a school. It is described in the list entry as 'in Tudor style, is single storeyed with large three-light ovolo moulded mullion and transom windows...'. 1846 is inscribed above a substantial gothic-arched porch to no.15, beyond which is the boundary with what has become no.11. No.11 originated as the schoolmaster's house. Although no.11 is plainer than no.15, both are modest properties which honestly reflect the nature and structural limitations of historic construction.
7. In turn, no.11 adjoins no.9, which is locally listed along with the row of cottages of which it is part. I understand that no.9 was previously Thacker's sweet shop, to which the atypically large ground floor window likely alludes. I am told that off-street parking associated with no.9 is also a legacy from that previous use. To the north, no.15 abuts what instead appears to be a late twentieth century infill property, with nos.19 and 21 beyond. The latter semi-detached pair are quintessentially late Victorian. They are something between the more modest terraces at Highwell Road beyond, and grander historic villas elsewhere (notably at Seafield Road and between Harbour Road and the Esplanade).
8. As noted in the CAA, Seaton remained a small fishing village until the mid-nineteenth century. The arrival of the railway in 1868 served to change its economic locus towards a leisure destination, to which much built development within the SCA relates. Greater connectivity by virtue of the railway did not, however, lead to such significant growth as at other seaside locations in Devon; the SCA is comparatively modest in extent. That history is particularly relevant in respect of the listed building, which reflects the evolution of Seaton before its Victorian and Edwardian expansion. The listed building has some importance in that respect in enabling an appreciation of the lengthy history to the Town.

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<sup>3</sup> Entitled 'Adapting Historic Buildings for Energy and Carbon Efficiency', published 23 July 2024.

<sup>4</sup> 'No. 11 and premises of the Women's Institute'.

9. As a general, if not universal, rule, subsequent and successive eras of development at Seaton have tracked upwards in the landscape towards the north of the Bay, Harepath Road being almost perpendicular to it (as opposed to Harbour Road which heads eastwards towards Haven Cliffs, and Marlpit Lane or Beer Road which rise in the topography towards the west). That topography is significant in that the landform here declines broadly west to east, such that the listed building is set at a higher ground level than properties on the opposite side of Harepath Road. The front boundary wall to the plot no.15 therefore serves something of a retaining function (as, more clearly, does the front boundary wall at nos.19 and 20).
10. The front boundary walls to the plots of nos.15 and 11 are principally constructed of local rubblestone (albeit there are stucco piers, ostensibly historic, to the pedestrian access to no.11). At some point previously a pedestrian access has been created through the wall to access no.15 individually. The wall has also been patched hodgepodge over time.
11. The appellant, who I am told purchased the property relatively recently, indicates that the wall is in poor condition, including on account of the plot of no.15 having been largely left to become overgrown (notably with St. John's Wort and Beach Rose, the latter an invasive non-native species). I also saw that there is off-street parking associated with several properties nearby, for example at the infill property to the north of no.15, and also at nos.4 and 9 Harepath Road.
12. Nonetheless the wall, in my view, still contributes positively to the historic integrity of the listed building. As with the listed building itself, it was evidently constructed from local materials readily at hand, honestly attesting to that period in Seaton's history. Neither the creation of a pedestrian access to what has become no.15, nor patching of the wall over time, has significantly altered the history that it physically embodies. In map 2 to the CAA, the listed building is identified as one where there are 'largely unspoilt frontages retaining significant period detail...', the wall itself referred to as one of a handful of 'prominent walls'. The wall also aids an understanding to the history of the listed building in the present, namely enclosing an historic school yard.
13. Low rubblestone walls are, moreover, somewhat characteristic of the SCA (including where they address a differential in ground levels). That is specifically reflected in CAA paragraph 7.2, as is loss of character resulting from non-historic boundary features in CAA paragraph 10.1. Similar walls as at the listed building, occasionally topped with flint detailing, demarcate certain plot boundaries nearby,<sup>5</sup> and are present elsewhere within the SCA.<sup>6</sup>
14. Front boundary walls of brick and stucco or render are also present throughout the SCA, consistent with Victorian and Edwardian architectural tastes.<sup>7</sup> In my view low boundary walls contribute both towards a sense of harmony in the SCA and to a relatively intimate, hand-made or human scale, character (which is also reflected in the modest form of many historic buildings).

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<sup>5</sup> At no.5 Harepath Road, no.8 Manor Terrace opposite the junction of Harepath Road with Manor Road, and various properties along Manor Terrace and along Beer Road.

<sup>6</sup> Notably around Windsor Gardens.

<sup>7</sup> Including at Queen Street, Manor Road, and Seafield Road.

15. Consequently, insofar as relevant to these appeals, the significance of the listed building derives principally from its form, materials and relationship to its surroundings (geographically and temporally). The wall contributes positively to historic integrity physically, and by reflecting the former use of the listed building. In those respects, and as reasoned above given that low boundary walls are somewhat characteristic of the SCA in terms of appearance and character, the wall contributes towards historic integrity and significance more broadly.

#### *The proposal*

16. In short, as shown on drawing no. 'E100 Revision B' as opposed to a previous iteration, the proposal is to remove approximately 2.4m of the wall at no.15 to create off-street parking. An electric vehicle charging point would be installed, largely occluded from view by virtue of being set within the porch. The scheme before me differs to the original 4m wide opening proposed.
17. The level of the front garden would need to be reduced, graded to address the differential between the ground level by no.15 and by the pavement. Concrete within the plot of no.15 would be removed and permeable paving would instead be installed. The appellant refers to the intention to re-use stone removed, which could be secured via condition were the scheme acceptable as a whole. The proposal would also entail the clearance of the plot and unwanted plants, and the making good of those elements of the wall to be retained.

#### *The effect of the proposal*

18. As set out earlier, I acknowledge that the wall was originally created from materials readily at hand to serve essentially a functional rather than aesthetic purpose. I also accept that it has been altered previously by way of the creation of pedestrian access to no.15, as has the plot of that property by virtue of installation of concrete and paving (notwithstanding changes to the use and form of the listed building over the years). As also noted above, and reflected in the CAA more broadly, various boundary walls nearby have either been removed or altered over time. It is a truism that historic buildings need to evolve somewhat to accommodate changing expectations over time (and are best preserved by being maintained in optimum viable use).
19. At present, however, the wall in its current form contributes to the historic integrity of the listed building and to that of the SCA. I have set out how that contribution is not solely by virtue of its physical form and contribution to the character and appearance of the SCA, but also in how the wall aids an understanding and appreciation of the origins of the listed building in the context of the history to the Town itself. In that context the scheme cannot rationally be described other than as harmful to special interest and significance.

#### *Consideration*

20. It is for the decision-taker, having established that harm would result, to gauge its extent. As above, there are various moderating factors in that respect, principally that the proposal would affect only part of the wall enclosing the plot of no.15, which is in turn only a small element of the SCA as a whole. Consequently, in my view, it is fair to categorise the harm that would result as 'less than substantial' with

reference to NPPF paragraph 212 (and furthermore towards the lower end of a spectrum within that categorisation). That is notwithstanding that the existence of works or development that have reduced historic integrity over time do not inherently justify further harm.

21. NPPF paragraph 215 guides that, in such circumstances, any harm should be weighed against the public benefits of the proposal including, where appropriate, security the optimum viable use of an asset. That is a balance to which I now turn, noting also that NPPF paragraph 213 sets out how any harm to, or loss of, the significance of a designated heritage asset should require 'clear and convincing justification'.

### *The planning balance*

22. In heritage terms, the proposal offers the opportunity to shore up remaining elements of the wall and to maintain both the wall and nature of the plot of no.15 so as to prevent their condition further deteriorating over time. Off-street parking is, I accept, a more convenient arrangement than at present, which might legitimately be seen as supporting the continued optimum viable (residential) use of part of the listed building.
23. There is limited on-street parking provision available in the immediate vicinity given the proximity of the junction of Harepath Road, Queen Street and Manor Road and the presence of double yellow lines for some distance by it. There is some force in the argument that increased provision of off-street parking would reduce parking stress broadly, and demand associated with occupation of dwellings specifically; car parks at Seaton being described in CAA paragraph 10.10 as 'largely featureless' relative to the historic nature of the SCA.
24. In broader terms, supporting electric vehicle infrastructure may be accorded some weight as positively environmentally in terms of reducing emissions.<sup>8</sup> There is broad-brush support for electric vehicle infrastructure in NPPF paragraph 117.e), in HEAN18, and for sustainable transport via Local Plan policy 5B.<sup>9</sup> The scheme would furthermore offer the opportunity to replace unhistoric impermeable surfaces within the plot of no.15 with permeable paving, thereby beneficially contributing to reducing the area's susceptibility to surface water run-off.
25. Nothing I have read or seen, however, demonstrates that works to the wall or plot are either necessary in the interests of its preservation or inherently reliant on the proposal before me. Many individuals accept quirks and compromises as the logical corollary of living in a property with a rich history. Moreover, many properties nearby do not benefit from off-street parking as a consequence of the historic nature of the built environment.
26. Realistically in that context, the scheme would not have a significant effect on reducing parking stress or demand for public car parking facilities. I also saw that there is on-street parking provision relatively nearby, including along Highwell Road and Seaton Down Road. The Orchard Car Park, which at the time of my site visit had electric vehicle charging points, is also a relatively short distance away (to

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<sup>8</sup> Noting that the appellant has set out that the domestic tariff for charging is lower than that offered at commercial facilities.

<sup>9</sup> And also in Local Plan policy TC9, albeit in respect of 'new development'.

which there is pedestrian access via Stock Lane shortly after the junction between Harepath Road, Queen Street and Manor Road).

27. Notwithstanding the extent of harm that would result from the scheme, fundamentally there is no clear and convincing justification in favour of the proposal. Moreover, even if the scheme were acceptable in highways terms, noting the position of Devon County Council, that would be neutral in my assessment of the scheme (rather than weighing positively in favour of allowing the appeals).

*Conclusion*

28. Whilst the appellant's motivation for the proposal is entirely understandable, the scheme would fail to preserve significance. It would instead be contrary to the expectations of statute and relevant provisions of the NPPF and Local Plan policies EN9 and EN10. Notwithstanding the extent of harm that would result, mitigating factors and positive implications of the scheme, there are neither public benefits nor other considerations of sufficient weight to justify allowing the appeals. I therefore conclude that the appeals should be dismissed.

*Tom Bristow*

INSPECTOR