



Appeal Decision

Site visit made on 1 October 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2025

Appeal Ref: APP/R1845/F/25/3362517

Land off Sion Hill, Badland Avenue, Kidderminster, DY10 2YH

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mr Tom Bain against a listed building enforcement notice issued by Wyre Forest District Council
 - The enforcement notice was issued on 11 February 2025
 - The contravention of listed building control alleged in the notice is: removal of iron railings and partial demolition of brick wall to front boundary adjacent to Sion Hill.
 - The requirements of the notice are: 1. Rebuild the demolished section of the brick boundary wall from original bricks, original coping stones/bricks and a Natural Hydraulic Lime Mortar in classification NHL 3.5-5.0. If original bricks and/or coping stones have been damaged/lost, then reclaimed bricks to match originals must be sought and used in their place. 2. Reinstate the iron railings installed to the brick boundary wall with original fixtures. If originals have been lost replicas must be manufactured and installed in their place. These should match in material, design, colour, and number/gaps between railings of the existing iron railings which are still in place on the Northern side of the gateway. See Appendix reference photo of existing railings.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the ground 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 dismissed and the listed building enforcement notice is upheld.

Reasons

2. The wall surrounds a large area of open ground beside Sion Hill House which is grade II listed. There is no dispute that the wall is curtilage listed. The main entrance to Sion Hill House is taken from Sion Hill, just north of Badland Avenue and it is this section of wall that is in dispute. The wall is maintained at its full height around the parcel of land except where it approaches the access. Here it is stepped down to be lower (just below waist height) and was topped by iron railings. These railings have now been removed and the wall by the entrance gates damaged. It is the removal of the railings and the damage to the wall that the notice seeks to remedy.

3. Ground (c) is that the matters alleged are not a contravention of section 9 of the Act. The appellant argues that the railings were actually installed as part of the works granted planning permission and listed building consent to convert Sion Hill House into various separate dwellings in the early 2000s. This installation was to comply with a note attached to the list of conditions requiring improved visibility in each direction at the entrance. The note required a scheme to be agreed by the Council and no such scheme was ever submitted. Therefore, removing the railings that were unlawfully

installed in the first place does not require listed building consent as the unlawful railings were not listed.

4. The Council's counter argument is that the conditions were discharged and did not include any alterations to the wall or addition of railings. All the works to discharge the conditions were on the highway. They then provide a detailed discussion of the provenance of the railings and in their view they pre-date the listing.

5. The assumption by the appellant that if the railings were a post-listing alteration that did not receive listed building consent; and if they were then subsequently removed, then the notice cannot require them to be replaced is correct. Of course a future notice could require the wall to be returned to its original height, if the evidence suggests that is what was there when the building was originally listed back in 1958.

6. Unfortunately there is no evidence before me to show what the wall was like originally. The appellant's evidence would seem to merely be an assertion that "*it is believed*" the works were carried out as described above, sometime around 2002. No actual evidence is provided, nothing from the developer at the time or the then or later owners. Similarly the Council have no actual counter evidence. I shall have to determine the issue solely on the visual evidence the of the wall as it is.

7. The appellant argues the wall is made of a different brick to the house and outbuildings, which would seem to be true. However, this only suggests the wall was built sometime after the early 18th Century. The Council point out the wall is similar to that which surrounds the walled garden and that wall is clearly historic, if a later addition to the house. At its full height the appeal wall is capped by black bricks, whereas, where the boundary wall is lower to accommodate the railings it is capped by slightly different, smaller, black bricks laid on a row of tiles which create a slight overhang. However, this does not necessarily suggest the two parts of the wall are of a different date, merely that it was perhaps more aesthetically pleasing to cap the lower wall with a course of tiles as well as bricks. The Council also point out that part of the walled garden has the same treatment and this can be seen in the extracts from a heritage statement from 2004 concerning the redevelopment of the walled garden. The listing notes the main building was remodelled in the early 19th Century and this would be a likely date for the Victorian looking railings and indeed the whole boundary wall and possibly the walled garden as well.

8. Consequently, it seems to me on the balance of probabilities the railings are likely to pre-date the listing, possibly to be early Victorian, and that they therefore do benefit by being included with the listed building. No arguments have been raised concerning the partial demolition of the wall by the entrance gates which I assume is uncontested. Thus the appeal on ground (c) fails, and I shall dismiss the appeal and uphold the notice.

Simon Hand

INSPECTOR